SIKKIM

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GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No: 15/LD/P/2008 **Date: 30.07.2008**

NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 28th day of June, 2008 is hereby published for general information:-

THE SIKKIM POLICE ACT, 2008
(Act No. 15 of 2008)

AN
ACT

to make provision for the law relating to the establishment and management of the Police organization and its functions.

Be it enacted by the Legislature of Sikkim in the Fifty-ninth Year of the Republic of India as follows: -

CHAPTER I
Preliminary: Definitions and Interpretations

Short title, extent and commencement

1. (1) This Act may be called the Sikkim Police Act, 2008.
(2) It extends to the whole of Sikkim.
(3) It shall come into force on such date as the State Government may by notification in the Official Gazette appoint.

Definitions

2. (1) In this Act, unless the context otherwise requires.-
(a) "Act" means the Sikkim Police Act, 2008;
(b) "cattle" means and includes cows, buffalos, elephants, camels, horses, asses, mules, sheep, goats and swine;
(c) "core functions" means duties related to sovereign functions of the State including arrest, search, seizure, crime investigation, crowd control and allied functions that can only be performed by the police as the agency of the State;
(d) "Group `C' posts" means the posts so categorized under the relevant State Service Rules;

(e) "Headquarters Company" means a unit performing administrative and other support functions of a State Armed Police Battalion;

(f) "insurgency" includes waging of armed struggle by a group or a section of population against the State with a political or other objective including the separation of a part from the territory of India;

(g) "internal security" means preservation of sovereignty and integrity of the State from disruptive and anti-national forces;

h) "Magistrate" means, unless the context otherwise requires, an Executive Magistrate appointed under Section 20 of the Code of Criminal Procedure, 1973 and includes a person exercising powers of Sub-Divisional Magistrate or District Magistrate;

(i) "militant activities" include any violent activity of a group using explosives, inflammable substances, firearms or other lethal weapons or hazardous substance in order to achieve its political or other objectives;

(j) "non-core police functions" means such functions which are not core functions as defined;

(k) "organized crime" includes any crime committed by a group or network of persons in pursuance of its common intentions of unlawful gain by using violent means or threat of violence;

(l) "place of public amusement and public entertainment" includes such places as may be notified by the State Government, and in case no such place is notified, then any place liable for payment of amusement/ entertainment tax to the State Government.

(m) "Police District" means such area as may be declared to be a Police District by the State Government by notification under Section 8 of this Act;

(n) "Police Officer" means any member of the Police Service of the State;

(o) "prescribed" means prescribed under this Act;

(p) "public place" means any place to which the public have access and include:

(i) a public building and monument and precincts thereof;

(ii) any place accessible to the public for drawing water, washing or bathing or for purposes of recreation; and

(iii) such other places as may be notified by the State Government;

(q) "regulations" mean regulations made under this Act;

(r) "rules" mean rules made under this Act;

(s) "Service Companies" means units of State Armed Police Battalions and District Armed Reserve which are deployed for law and order and other duties in support of civil police;

(t) "Service" means the Police Service constituted under this Act;

(u) "State" means the State of Sikkim;

(v) "State Government" means the Government of Sikkim;

(w) "Station House Officer" means the Officer in-charge of Police Station, of and above the rank of Sub-Inspector of Police;

(x) "Subordinate rank" means all ranks below the rank of Assistant or Deputy Superintendent of Police;

(y) "terrorist activity" includes any activity of a person or a group using explosives or inflammable substances or firearms or other lethal weapons or noxious gases or other chemicals or any other substance of a hazardous nature with the aim to strike terror in the society or any section thereof, and with an intent to overawe the Government established by law.

(2) Words and expressions used in this Act but not defined specifically shall have the same meaning as provided in the General Clauses Act 1897, the Code of Criminal Procedure 1973, and the Indian Penal Code, 1860.

CHAPTER II

Constitution and Organization of the Police Service

One Police Service for the State

3. There shall be one Police Service for the State, called the Sikkim Police. Members of the Police Service shall be liable for posting to any branch of the Service, including the Armed Police or any of its specialized wings.

Constitution and composition of the Police Service

4. Subject to the provisions of this Act-

(1) The Police Service shall consist of such number of Police officers, including members of the Indian Police Service and the State Police Service, as the State Government may by general or special orders determine from time to time.

(2) The direct recruitments to Group 'C' posts in the Police Service shall be made through a Police Recruitment Committee by a transparent process as per rules framed by the State Government.

(3) The recruitment to the rank of Deputy Superintendent of Police shall be made through the State Public Service Commission.

(4) The composition of the Police Service shall, as far as possible, reflect adequate representation of all sections of society, including gender representation.

(5) The pay, allowances, service and working conditions of Police officers shall be as prescribed by rules from time to time. These shall always be commensurate with the arduous nature of their duties.

(6) Police officers shall at all times remain accountable to the law and responsive to the lawful needs of the people, and shall observe codes of ethical conduct and integrity as prescribed.

Appointment of Director General of Police, etc.

5. (1) For the overall direction and supervision of the Police Service, the State Government shall appoint a Director General of Police who shall exercise such powers, perform such functions and duties, and have such responsibilities and such authority, as may be prescribed.

(2) The post of Director General of Police shall be the senior-most position in the hierarchy of the Police Service of the State and no officer senior to the incumbent Director General of Police shall be posted to any position within the State police Service.

(3) The State Government may appoint one or more Additional Directors General of Police, and as many Inspectors General of Police, Deputy Inspectors General of Police and Assistant Inspectors General of Police as necessary.

(4) The State Government may, by a general or special order in consultation with the Director General of Police, direct in what manner and to what extent an Additional Director General of Police or an Inspector General of Police or a Deputy or Assistant Inspector General of Police shall assist and aid the Director General of Police in the performance, exercise and discharge of his functions, powers, duties, responsibilities and authority.

(5) Subject to such general or special order of the State Government, the Director General of Police may from time to time assign specific duties and responsibilities to an Additional Director General of Police or an Inspector General of Police or a Deputy or Assistant Inspector General of Police by a general or special standing order.

Selection and term of office of the Director General of Police

6. (1) The State Government shall appoint the Director General of Police from amongst officers of the Indian Police Service in the State Cadre empanelled for the post and recommended by a three member screening committee headed by the Chief Secretary constituted for the purpose. The Screening Committee shall prepare a panel of at least three suitable persons. Except in the case where the vacancy is unanticipated, the Screening Committee shall make its recommendation before the vacancy arises:

Provided that in case the Screening Committee comes to the conclusion, for reason to be recorded in writing, that there being no suitable incumbent available in the State Cadre, it may assess the suitability of empanelled Indian Police Service officers of other State Cadres subject to their willingness and concurrence of the Central Government.

(2) The Screening Committee may device its own procedure and shall consider the names of all empanelled officers of the Indian Police Service in the State Cadre and shall make its assessment on the basis of-

(a) the performance appraisal reports;

(b) the range of experience relevant to professional police work including experience of work in Central Police Organizations;

(c) clean record of service in terms of indictment of the officer in any criminal or disciplinary proceeding or on the grounds of corruption or moral turpitude; and

(d) due weightage being assigned to award of medals for Gallantry, Distinguished and Meritorious services:

Provided that where the Committee finds that no suitable Indian Police Service Officer is available in the State Cadre it shall make its assessment with regard to Indian Police Service officers of other States Cadres, in accordance with the proviso to sub-section (1).

(3) The Director General of Police shall have a minimum tenure of two years subject to his normal date of superannuation:

Provided that the Director General of Police may be removed from the post before the expiry of his tenure by the State Government through a written order specifying reasons consequent upon: -

(a) framing of charges in a criminal case by a court of law; or

(b) issue of charge sheet under the provision of All India Services (Discipline and Appeal) Rules or any other relevant rules; or

(c) suspension from service : or

(d) incapacitation by physical or mental illness or otherwise becoming unable to discharge his functions as Director General of Police; or

(e) administrative exigencies, in larger public interest; or

(f) promotion to a higher post under either the State or the Central Government:

Provided further that the officer may be allowed by the State Government to relinquish charge of the post on:- (i) appointment to a post under the Central Government or an International Organization subject to such officer having given his consent to such a posting or (ii) resignation or voluntary retirement from service.

Creation of Police Ranges and Police Zones

7. The State Government, in consultation with the Director General of Police, may, if required in public interest, by notification divide the entire geographical area of the State into one or more Police Ranges, and two or more Police Ranges into Police Zones. Each Range shall be headed by an officer of the rank of Deputy Inspector General of Police who shall supervise the Police administration of the Range and report directly to the Inspector General of Police in charge of Law and Order, or on creation of Police Zones, to the Inspector General of Police in charge of the Zone comprising his Range, who shall supervise the Police administration over all Ranges under him and report to the Director General of Police through the Additional Director General of Police, Law and Order, if appointed.

Police Districts

8. The State Government, in consultation with the Director General of Police, may by notification declare any area within the state to be a Police District. The administration of the Police throughout such district shall vest in the Superintendent of Police who may be assisted by as many Additional, Assistant or Deputy Superintendents of Police, as deemed necessary and are notified.

District level Special Cells, Sub-Divisions

9. (1) For the purpose of dealing with a particular category of crime or providing better service to the community at large including victims of crime, the State Government may, in consultation with the Director General of Police and by notification, create one or more Special Cells in each Police District to be headed by an officer of the rank of Assistant/Deputy Superintendent of Police.

(2) The State Government may, by notification, divide each Police District into as many Sub-Divisions as deemed necessary, to be headed by an officer of the rank of Assistant/Deputy Superintendent of Police.

Police Stations

10. (1) The State Government may, in consultation with the Director General of Police and by notification, create as many Police Stations with as many Outposts as necessary in a Police District, duly keeping in view the population, the area, the crime situation, the workload in terms of law and order, and the distances to be traversed by the inhabitants to reach the Police Stations.

(2) A Police Station shall be headed by a Station House Officer not below the rank of Sub-Inspector of Police.

(3) The State Government shall ensure availability of adequate strength of staff at each Police Station, duly based on the population, incidence of crime, law and order-related workload, and the geographical area.

(4) The State Government shall provide, as early as possible, each Police Station with all essential amenities including a reception-cum-visitors' room, separate toilets for men and women, and to deal with the tasks relating to administration of special legislations relating to women and children.

(5) Each Police Station shall have a Woman and Child Protection Desk, staffed as far as possible by women Police personnel, to record complaints of crimes against women and children and to deal with the tasks relating to administration of special legislations relating to women and children.

(6) Each Police Station shall prominently display all the relevant information required to be made public, including the Supreme Court guidelines and directions, as also departmental orders on arrests, and the details regarding the persons arrested and held in lock-ups.

(7) Each Police Station shall maintain a general diary in such form as the State Government may prescribe, wherein shall be recorded all the complaints and charges received, action taken thereon, names and particulars of persons

arrested, the offences charged against them and the property taken from their possession.

Term of office of key Police functionaries

11. An officer posted as Station House Officer in a Police Station or as Superintendent of Police of a District shall have a minimum term of two years:

Provided that any such officer may be removed from his post before the expiry of the minimum tenure of two years consequent upon-

(a) filing of charge sheet in a criminal case in a Court of law; or

(b) issue of charge sheet for major penalty under the relevant disciplinary rules; or

(c) suspension from service in accordance with the provision of the relevant disciplinary rules; or

(d) reversion to a lower post for administrative reasons; or

(e) incapacitation by physical or mental illness or otherwise becoming unable to discharge his functions and duties; or

(f) administrative exigencies, in larger public interest.

Co-ordination in the matters of overriding public importance

12. (1) District Magistrates within their jurisdiction shall function as nodal and coordinating authorities on behalf of the State Government and provide leadership in the time of crisis likely to affect the public peace.

(2) In order that these functionaries are able to discharge these functions effectively in matters of overriding public importance, the District Superintendent of Police shall keep the District Magistrate fully informed on all the matters in the district relating to the state of law and order and potential for disturbance of the public peace and shall promptly consult him on all matters of overriding public importance relating to the Police.

(3) The Sub-Divisional Police Officer shall keep the Sub-Divisional Magistrate or the Executive Magistrate, as the case may be, fully informed on all the matters in the Sub-Division or other local jurisdiction relating to the state of law and order and potential for disturbance of the public peace and shall promptly consult him on all matters of overriding public importance relating to the Police.

General Administration

13. (1) For the purpose of efficiency in the general administration of the district, it shall be lawful for the District Magistrate, in addition to the provisions of the Code of Criminals Procedure, 1973 and other relevant Acts for the time being in force, to issue directions to the Police of the District in respect of the matters relating to the following:-

(a) the promotion of land reforms and the settlement of land disputes including removal of encroachments on Government land, common lands and forest lands;

(b) matters related to the projects of State level importance particularly in relation to power, industry and tourism;

(c) extensive disturbance of the public peace and tranquility in the district;

(d) the conduct of elections to any public body or holding of any function or event of public importance;

(e) the handling of natural or man-made disasters or major accidents and rehabilitation of the persons affected thereby;

(f) situations arising out of any external aggression, threat to internal security, riot, industrial or other strike etc;

(g) matter related to protection of women, weaker sections and minorities;

(h) removal of any persistent public grievance;

(i) any matter not within the purview of any one department and affecting the general welfare of the people of the district, or arising out of a judicial pronouncement, necessitating the District Magistrate to use the services of the Police; and

(j) such other matters as the State Government may assign from time to time in public interest.

(2) It shall be lawful for the District Magistrate to call for information or assistance of a general or special nature from the Police with respect to the matters specified in sub-section (1), and the Superintendent of Police shall furnish such information and all necessary assistance to the District Magistrate for the purpose.

(3) Superintendent of Police may, in order to provide Police service in respect of matters specified under sub-section (1), refer a matter to the District Magistrate to issue directions to all or any of the departments in the district to facilitate such assistance as may be necessary, and the District Magistrate may issue appropriate directions, which shall be complied with by the district head of the department concerned without demur or delay.

State Intelligence and Criminal Investigation Departments

14. (1) The State Police Service shall have a State Intelligence Department for collection, collation, analysis and dissemination of intelligence, and a Criminal Investigation Department for investigating inter-state, inter-district crimes and other specified offences, in accordance with the provisions of this Act.

(2) The State Government shall appoint a Police officer of or above the rank of Deputy Inspector General of Police to head each of the aforesaid departments.

(3) The Criminal Investigation Department shall have specialized wings to deal with different types of crime requiring focused attention or special expertise for investigation. Each or more than one of these wings shall be headed by an officer not below the rank of Superintendent of Police.

(4) The State Intelligence Department shall have specialized wings to deal with and coordinate specialized tasks such as measures for counter terrorism, counter militancy and VIP Security.

(5) The State Government shall appoint appropriate number of officers from different ranks to serve in the Criminal Investigation Department and the State Intelligence Department, as deemed appropriate with due regard to the volume and variety of tasks to be handled.

Technical and Support Services

15. (1) The State Government shall create and maintain such ancillary technical agencies and services, under the overall control of the Director General of Police, as considered necessary or expedient for promoting efficiency of the Police Service.

(2) The services so created shall include a full-fledged Forensic Science Laboratory at the State-level and as many number of Mobile Forensic Science Units as necessary with appropriate equipment and scientific manpower, in keeping with the guidelines laid down by the Directorate of Forensic Science or the Bureau of Police Research and Development of the Government of India.

(3) The State Government shall appoint an officer not below the rank of Superintendent of Police as in-charge of Police Telecommunications, and as many Additional Superintendents of Police and Deputy Superintendents of Police as deemed necessary to assist him.

(4) The State Government shall similarly appoint an officer not below the rank of Superintendent of Police as in-charge of Police Transport, which may be located under the State Reserve Lines, and as many Additional Superintendents of Police and Deputy Superintendents of Police as deemed necessary to assist him.

(5) The State Government shall ensure regular maintenance of all the needed equipment and regular replenishment of consumables for the Police Telecommunications and the Police Transport Service.

(6) The State Government shall also frame recruitment and promotion rules specifying inter alia the technical qualifications and experience required to man posts up to a certain level in the said two establishments.

(7) In case services of other technical experts or specialists are necessary for the investigation of a case or enquiry, or handling of a serious law & order situation, the State Government may temporarily appoint or place the services of such expert or specialist at the disposal of the concerned department or branch head of the Police for a period as may be deemed appropriate.

(8) Respective in-charge of Fire Services in the State and districts shall provide all necessary assistance to the Police as may be required by the Director General of Police, Inspector General of Police (Law and Order), Deputy Inspector General of Police (Range), District Magistrate and District Superintendent of Police for the handling of Law and Order or any other emergency situation.

Police Training Centre

16. (1) The State Government shall establish a full-fledged Police Training Centre for ensuring efficient post-induction training of all directly-recruited Police personnel up to the rank of Sub- inspector, pre-promotions training for all those promoted to higher levels and such thematic and specialized in-service training courses for Police officers of different ranks and categories as deemed necessary from time to time.

(2) The State Government shall appoint an officer not below the rank of Superintendent of Police as the Principal of the Police Training Centre.

(3) The State Government shall also appoint appropriate number of officers from the Police Service in the Police Training Centre who may be given additional monetary and other incentives so that the best available talent in the Police Service is attracted and retained in the faculty of the Centre.

(4) The State shall also ensure that persons with academic accomplishments in the fields of Law, Sociology, Psychology, Criminology, Forensic Science and other academic subjects relevant to Police profession regularly visit the Police Training Centre for imparting knowledge to the trainees in their respective fields, and for which they may be paid suitable remuneration.

Research and Development

17. The State Government may set up a body or bodies within or outside the Police Service in such manner as may be expedient for undertaking survey and studies in providing advice and guidance to the Director General of Police and the State Government on matters relating to the policing or the efficiency of the Police Service.

Oath or affirmation by Police Officers

18. Every member of the Police Service enrolled under this Act shall on appointment and completion of training, make and subscribe before an officer appointed in that behalf by the Director General of Police an oath or affirmation, in such form as may be prescribed.

Certificate of appointment

19. (1) Every Police officer shall on appointment receive an insignia and a certificate in the form as may be prescribed. The certificate in respect of officers below the rank of Inspector of Police shall be issued under the seal of the Director General of Police or such officer as he shall appoint, by virtue of which the person holding such certificate shall be vested with the powers, functions and privileges of a Police Officer.

(2) The certificate of appointment shall become null and void, and the insignia shall be deemed to be withdrawn, whenever the person named therein ceases for any reason, to be a Police Officer.

(3) A Police officer shall not, by reason of being suspended from office, cease to be a Police Officer. During the term of such suspension the powers, functions and privileges vested in him as a Police Officer shall be in abeyance, but he shall continue to be subject to the same responsibilities, discipline and penalties and to the same authorities as if he had not been suspended.

Uniform and badges or rank

20. (1) The State Government shall, by general or special order notified in the Official Gazette, prescribe the uniform for the various ranks in the Police, the scale, monetary grants for purchase and maintenance and the protocol with respect to duties and the wearing of the uniform.

(2) The State Government shall, by general or special order notified in the Official Gazette, prescribe the badges of rank and other distinctive badges that may be worn with the uniform.

(3) The Director General of Police, subject to such orders of the Government, may issue general standing orders in this regard.

Special Police Officers

21. (1) When the Police force ordinarily employed in any area is not sufficient to deal with a situation threatening peace and security, the Superintendent of Police or any officer, specially empowered in this behalf by the State Government, in-charge of that area may, at any time by a written order issued under the hand and seal of such officer, appoint for a period as specified in the appointment order, any able-bodied and willing person between the age of 18 and 40 years, whom he considers fit, to be a Special Police Officer to assist the Police Service.

(2) Every Special Police Officer so appointed shall-

(i) on appointment, undergo the prescribed training and thereafter receive a certificate in a form approved by the State Government in this behalf; and

(ii) have the same powers, privileges and protection and be liable to perform the same duties and responsibilities and be subject to the same authorities as an ordinary Police Officer.

Additional Police Officers

22. (1) Subject to the general or special directions of the State Government,the Superintendent of Police may, in consultation with the District Magistrate, appoint or depute additional Police officers comprising of such ranks or grades for the purpose prescribed by the State Government for such time and on such pay as the authority prescribed in that behalf may determine.

(2) Every Additional Police Officer upon such appointment shall-

(i) receive a certificate in a form approved by the State Government in this behalf;

(ii) be vested with all or such of the powers, privileges, duties and immunities of a Police officer as are specially mentioned in the certificate; and

(iii) be subject to the orders of the Superintendent of Police.

(3) The deployment or deputation of such Additional Police Officer may be made at the request of any person requiring such Police, and the cost of such deployment shall be recovered by the District Magistrate in such manner provided in sections 421 and 422 of the Code of Criminal Procedure,1973 for recovery of fines, or by any other law for the time being in force, or by suit in any competent Court.

CHAPTER III

The Civil Police

Recruitment

23. (1) The Civil Police shall comprise of all personnel of Sikkim Police other than Armed Police, and the strength of the various cadres, the Criminal Investigation Department, State Intelligence Department and branches of the Civil Police shall be as prescribed by the State Government from time to time.

(2) Recruitment to the Civil Police shall be in accordance with the Rules notified by the State Government. The Director General of Police, subject to the provision of this Act, shall cause an annual recruitment to be conducted to all Group 'C' vacancies in the Civil Police required to be filled by direct recruitment :

Provided that the quota for direct recruitment, in ranks to which direct recruitment is conducted, shall be so fixed by the State Government as to provide a fair balance between the different ranks and prospects for promotion to eligible and meritorious officers at each level.

(3) Every Civil Police officer on initial recruitment shall undergo induction training at the Police Training Centre. The period and syllabus of training shall be as may be prescribed, which may be revised from time to time on the recommendations of the Director General of Police subject to the general directions of the State Police Board.

Scale of arms and ammunition

24. The armament of the Civil Police shall be fixed with the approval of the State Government. Distribution of arms to districts will be fixed on the order of the Director General of Police, who by means of Standing Orders shall lay down the procedures to be followed for custody and care of arms, ammunition, stock of material for repair and maintenance, or the manner in which damaged and unserviceable weapons are to be disposed off, and procedure in case of loss of any weapon or ammunition.

Service Conditions of Primary Ranks of the Civil Police

25. (1) The Director General of Police with the approval of the State Government shall evolve and lay down a proper seniority-cum -merit criterion for promotion through a transparent process, for different ranks.

(2) The promotion of Civil Police officers should be linked with screening examinations and training, so as to ensure higher levels of professional competence and accountability.

(3) In order to provide a fast track for career progression to Police officers, at least 50 per cent of direct recruitment posts shall be earmarked for being filled up through promotion on the basis of seniority-cum-merit as per the laid down criteria.

(4) The Government shall endeavor to introduce a shift system in the Civil Police to ensure proper working hours consistent with efficiency in performance.

(5) The Director General of Police, with the approval of the State Government, shall try to outsource as many non-core Police functions as practicable, to enable Police Officers to concentrate on core Police functions.

Control and Supervision

26. (1) (a) The Station House Officer shall assign work and control and supervise the functioning of the staff of the Police Station and Police Posts in his charge

(b) The Sub Divisional Police Officer shall generally control and supervise the Police Stations under his charge, and issue such directions as may be necessary to better achieve the objects of this Act.

(c) The District Superintendent of Police shall generally control and supervise the work of the Sub Divisional Police Officers and Police Stations and Police Posts in the district and issue such directions as may be necessary to better achieve the objects of this Act.

(d) The Range Deputy Inspector General of Police and the Inspector General of Police, Law and Order shall generally control and supervise the work of the districts and the Range to better achieve the objects of the Act.

(e) For other Civil Police units the Director General of Police may, by special standing order, prescribe the controlling and supervisory authorities.

(2) Subject to provisions of this Act and any rules made there under the Director General of Police by general or special standing orders may prescribe from time to time the functions that need to be preformed by the various ranks of Civil Police in relation to each duty and responsibility.

(3) Subject to general or special standing orders of the Director General of Police, the controlling and supervising officer of the Police Station, Police Sub Division, Police District or other Civil Police unit may, by means of an order communicated in writing, prescribe the functions to be performed by various ranks of the Civil Police under his control, who have been assigned any specific duty or responsibility.

(4) For the better management of specialized duties and for the professional development of the members of the Civil Police, the State Government may constitute cadres or sub-cadres within the Group 'C' posts and in the State Police Service.

Conduct and Discipline

27. (1) Every Civil Police Officer shall perform to the best of his ability, the functions required from him in relation to any duty or responsibility assigned to him, subject to the provisions of this Act, rules made there under and the general or special standing orders of the Director General of Police.

(2) Any non-performance or deficiency in the standard of performance shall make the Police officer liable for disciplinary action in accordance with the conduct and disciplinary rules prescribed by the State Government for the purpose.

Mounted Police

28. (1) There may be provided for the State, such number of Mounted Police as may be determined by the State Government from time to time, for the purpose of patrols, crowd control and access to difficult areas.

(2) The Director-General of Police shall issue standing orders with regard to procurement, management, maintenance and training of the Mounted Police.

CHAPTER IV

Armed Police Units

State Armed Police Battalions and District Armed Reserves

29. To assist the Civil Police promptly and efficiently in dealing with group protests and violent disturbances involving breaches of peace or law and order, and in disaster management functions, as well as to discharge such duties that require the presence of armed police, the State Government shall create appropriate number of Armed Police Battalions for the State, including provision of women units, of which appropriate manpower strengths may be deployed in the Police Districts depending upon the requirement.

Role and functions

30. (1) The Armed Police Battalions will be a State-level reserve, to be deployed under specific orders of the Director General of Police to aid and assist the Civil Police in dealing with virulent and widespread problems of public disorder or other forms of violence, needing deployment of Armed Police beyond the resources of the District Police or such other duties as may be proscribed.

(2) Units of the District Armed Reserve, once deployed in the districts, will function under the control, direction and supervision of the District Superintendent of Police, and shall be the armed wing of the District Police to deal with an emergent law and order problem or such other duties as may be prescribed. Units of the Armed Police Battalion deployed for important security functions shall also be subject to supervision of the head of the State Intelligence Department (and the officer designated as in-charge of Security) who may issue appropriate orders to the units through the Deputy Inspector General of Police, Armed Police or the Commandant of the Armed Police Battalion for their necessary action.

Organizational structure of the Armed Police Battalion set-up

.31. (1) A Commandant, equivalent in rank to Superintendent of Police, shall head each Armed Police Battalion. The Commandant shall be assisted by a Deputy Commandant, equivalent in rank to Additional Superintendent of Police, who will also be the Second in-Command of the Battalion. Each Battalion shall be divided into appropriate number of Service Companies and a Headquarters Company, each of which will be headed by an Assistant Commandant, equivalent in rank to Deputy Superintendent of Police.

(2) The Armed Police Battalions set-up of the State shall be headed by an officer of or above the rank of Deputy Inspector General of Police, depending on the number of Battalions in the State, who shall be responsible for the administration, training, operations, preparedness and welfare of personnel of all the Armed Police units in the State, under the overall guidance and supervision of the Director General of Police.

(3) The duties of the head of the Armed Police Battalions set-up, the Deputy Inspector General of Police or above rank, the Commandant, the Deputy Commandants, the Assistant Commandants, Inspectors of Police and other ranks of the Service and the Headquarters Companies shall be as may be prescribed by the State Government, or the Director General of Police with the approval of the State Government, from time to time.

Recruitment

32. (1) Direct recruitment to the Armed Police Battalions, other than in the ministerial and technical cadres, shall be limited to the rank of Constable only, and should as far as possible reflect adequate representation of all

sections of society. Sub-Inspector and above rank in the Armed Police shall form a common cadre with the Civil Police.

(2) The educational qualifications, age limit and procedure for recruitment to the rank of Constable shall be as may be prescribed, and the recruitment shall be done by a Police Recruitment Committee. Subject to the provisions of this Act, the Director General of Police shall cause an annual recruitment to be conducted to fill all vacancies in the Battalions required to the filled by direct recruitment.

Training

33. (1) Besides the initial training of recruits at the Police Training Centre or the State Armed Police Headquarters as may be determined by the State Government, it shall also be ensured that all ranks in these units undergo an annual refresher training programme by rotation, over and above specialized training in different skills as needed by different categories. To achieve this, each Battalion will have one full company earmarked as the 'Training Reserve' to provide for rotational training to all personnel.

(2) The annual refresher training course shall be mandatory, and ordinarily the personnel undergoing such training shall not be withdrawn for deployment on law and order or any other duty.

(3) The curricula for the initial as well as annual refresher training courses, besides physical skills and fitness, shall lay due emphasis on the knowledge of Constitutional and legal rights of the citizens as well as skills relating to individual and collective interaction with the public, with special emphasis on courteous and impartial behavior.

(4) The content and methodology of the annual refresher training courses as well as the other specialized courses for the personnel of the Armed Police Battalions shall be reviewed and revised from time to time by the officer heading the State Armed Police Battalion set-up, in consultation with the Training Wing of the State Police, and under the overall guidance of the Director General of Police.

Conduct and Discipline

34. Every Armed Police Officer on duty shall ensure the maintenance of peace and tranquility to the best of his ability and shall-

(i) obey without delay, all lawful orders of his official superiors;

(ii) not exercise his discretion to use disproportionate or excessive force;

(iii) not exercise his discretion to refrain from using appropriate force to maintain the public peace, on extraneous considerations or in pursuance to orders or suggestions from a person other than his official superior;

(iv) not use his position, uniform or arms to intimidate any person other than when required in the proper discharge of his duties.

Deployment

35. (1) The deployment of units and sub-units of the State Armed Police Battalions shall be restricted to only those situations where such deployment is considered absolutely necessary.

(2) The District Superintendent of Police shall carefully scrutinize each request for deployment of District Armed Reserve received from the field officers. Similarly, the Director General of Police shall closely scrutinize each request for the deployment of any force from the State Armed Police Battalions received from any District Superintendent of Police, Deputy Inspector General of Police of a Range, Inspector General of Police, Law and Order or any other field officer, before ordering such deployment. The scrutiny will

include a realistic determination of the quantum of force required as also the duration for which the deployment is required.

(3) The deployment shall be made for a fixed period, as specified in the order, and unless the same is extended by a specific order, the force shall return to its headquarters on the expiry of the initial period.

(4) It shall be the duty of the District Superintendent of Police and the head of the Armed Police Battalion set-up in respect of the Battalion personnel, to ensure that that personnel of these armed units are deployed in a manner that ensures their regular and constant preparedness for their tasks, as also a fair rotation of duty between the various sub-units of the Armed Police Battalions at the State Headquarters and in the districts.

(5) While ordering deployment of any armed police unit, due care shall also be taken to ensure as far as possible, that the personnel are able to take due rest and also avail a weekly off.

Armament

36. (1) The armament of the Armed Police shall be as fixed with the approval of the Government and shall be obtained in the manner prescribed. Distribution of arms to Battalion and District Armed Reserves will be fixed on the order of the Director General of Police, who by means of Standing Order shall lay down the procedure to be followed for custody and care of arms, ammunition, stock of material for the repairs and maintenance, and the manner in which damaged and unserviceable weapons are to be disposed off, and the procedure in case of loss of any weapon or ammunition.

(2) The adequacy of arms, equipment, mobility, communication etc. for each Battalion as well as the District Armed Reserve shall be assessed regularly on an annual basis by the officer heading the State Armed Police organization in consultation with the Commandants and the District Superintendent of Police concerned.

CHAPTER V

Superintendence and Administration of Police

Superintendence of State Police to vest in the State Government

37. (1) It shall be the responsibility of the State Government to ensure an efficient, effective, responsive and accountable Police service for the entire State. For this purpose, the superintendence of the Police service throughout the State shall vest in and be exercised by the State Government in accordance with the provisions of this Act.

(2) The State Government shall exercise its superintendence over the Police service in such manner and to such extent so as to promote the professional efficiency of the Police and to ensure that the Police performance is at all times in accordance with the law. For this purpose, the State Government shall lay down policies and guidelines, setting standards for quality policing, facilitate their implementation and ensuring that the Police force performs its duties in a professional manner with functional autonomy.

Strategic Policing Plan and Annual Policing Plan

38. (1) The State Government shall-

(a) on the basis of a report of the Director General of Police in this behalf and in accordance with the recommendations of the State Police Board established under this chapter finalize a Strategic Policing Plan for a five-year period (hereinafter referred to as the "Strategic Plan") with Annual Sub-Plans (hereinafter referred to as the "Annual Plan") duly identifying the objectives of policing sought to be achieved during the period and setting out an action plan for their implementation;

(b) in making his report the Director General of Police shall be guided by reports of the specialized and other units of the Police and the District Superintendents of Police who, in turn, shall formulate the same in consultation with the community;

(c) place before the State Legislature a copy of this plan as soon as it is finalized. Subsequent Strategic Plans shall, thereafter, be laid before the State Legislature every five years;

(d) place before the State Legislature at the beginning of each financial year, a Progress Report on the implementation of the Strategic Plan as well as the Annual Plan for the preceding year.

(2) The Strategic Plan, the Annual Plan and the Progress Report shall be made readily accessible to the public.

State Police Board

39. The State Government shall establish a State Police Board to facilitate the laying down of policies, evaluate performance and ensure the functional autonomy of State Police Service subject to the provisions of law. The State Police Board shall function in the manner provided in this Act. The Board shall meet as often as deemed necessary, but at least once in six months.

Composition of the Board

40. (1) The State Police Board shall have the following as its members namely-

(a) the Chief Minister as its Chairperson;

(b) the Leader of Opposition in the State Legislative Assembly;

(c) a retired High Court Judge;

(d) the Chief Secretary;

(e) the Secretary in charge of the Home Department;

(f) the Secretary in charge of the Finance Department;
(g) the Secretary in charge of the Social Welfare & Empowerment Department;
(h) the Director General of Police as its Member-Secretary; and
(i) three non-political persons of proven reputation for integrity and competence to be appointed on the recommendation of the Selection Panel constituted under Section 41.

(2) The composition of the Board shall reflect adequate gender and minority representation.

(3) No serving government employee shall be appointed as an Independent Member.

(4) Any vacancy in the State Police Board shall be filled up as soon as practicable, but not later than three months after the seat has fallen vacant.

Panel for selection of Independent Members

41. Independent Members of the State Police Board shall be appointed on the recommendation of a Selection Panel, which shall consist of-

(a) a retired Chief Justice or Judge of a High Court as its Chairperson;
(b) the Chairperson of the State Public Service Commission; and
(c) the Chairperson of the State Election Commission.

Method of selection

42. The Selection Panel shall evolve its own procedure to select Independent Members through a transparent process.

Grounds of ineligibility for Independent Members

43. No person shall be appointed as an Independent Member of the State Police Board if he-

(a) is not a citizen of India; or

(b) has been convicted by a Court of law or against whom charges have been framed in a Court of law; or

(c) has been dismissed or removed from service or compulsorily retired on the grounds of corruption or misconduct; or

(d) holds an elected office, including that of Member of Parliament or State Legislature or a local body, or is an office-bearer of any political party or any organization connected with a political party; or

(e) is of unsound mind.

Term of office of Independent Members

44. A person shall be appointed as an Independent Member for a period of three years. The same person shall not be appointed for more than two consecutive terms. A person appointed as an independent Member may resign his position by written communication addressed to the Chairman of the Board.

Removal of Independent Members

45. (1) An Independent Member may be removed from the State Police Board by a two-thirds majority of members of the Board on any of the following grounds, namely-

(a) proven incompetence; or
(b) proven misbehavior; or
(c) failure to attend three consecutive meetings of the State Police Board without sufficient cause; or
(d) incapacitation by reason of physical or mental infirmity or otherwise becoming unable to discharge his function as a member.

(2) In addition, an Independent Member shall be removed from the State Police Board if he incurs any of the grounds of ineligibility specified under Section 43.

Functions of the State Police Board

46. (1) The State Police Board shall perform the following functions namely,-

(a) frame broad policy guidelines for promoting efficient, effective, responsive and accountable policing in accordance with the law;

(b) approve the five years Strategic Policing Plan and Annual Policing Sub-Plan;

(c) identify performance indicators to evaluate the functioning of the Police Service. These indicators shall, inter alia, include operational efficiency, public satisfaction, victim satisfaction vis-a-vis Police investigation and response, accountability, optimum utilization of resources, and observance of human rights standards; and

(d) review and evaluate organizational performance of the Police Service in the state as a whole as well as district-wise against (i) the Annual Plan, (ii) performance indicators as identified and laid down, and (iii) resources available with and constraints of the police.

(2) Till such time an appropriate law is made on the subject, the State Police Board shall also function as the State Vigilance Commission and perform the same functions in respect of the Sikkim Vigilance Police as are performed by the State Police Board in respect of the State Police, with Director Vigilance acting as the Member Secretary, who shall be an officer not below the rank of Inspector General of Police.

Expenses of the State Police Board

47. (1) Non-official members would be entitled to such remuneration or allowances as may be notified by the State Government from time to time.

(2) The expenses on account of remuneration, allowances and travel in connection with official business of the State Police Board, in respect of the Independent Members of the Board shall be borne by the State Government.

Transaction of Business by the Board

48. (1) Notice for meetings of the Board shall be issued by the Member Secretary at least 15 (fifteen) days before each meeting. Members desirous of raising an item for discussion in the meeting shall send notice so as to reach the Member Secretary at least 7 (seven) days in advance and the item shall be taken up with the approval of the Chairman of the Board.

(2) All meetings shall be held at Gangtok unless the Board decides otherwise. A record of proceedings of the Board shall be maintained by the Member Secretary who shall cause them to be circulated within 15 (fifteen) days of each meeting.

(3) The quorum for a meeting of the Board shall be one-third of the filled-up members of the Board. In the absence of quorum, the meeting shall be adjourned to the same time on the next working day, and no quorum shall be required for such adjourned meeting.

(4) The Board may devise its own procedure for transaction of business in accordance with provisions of this Act.

Annual Report of the State Police Board

49. (1) The Board shall, within three months after the end of each financial year, present to the State Government a report on its work during the preceding year as well on the evaluation of performance of the Police Service.

(2) The State Government shall cause such Annual Report to be laid before the earliest session of the State Legislature following its receipt from the Board, along with an action taken report.

Administration of Police

50. (1) The administration of the Police throughout the State shall vest in the Director General of Police and in such Additional Directors General of Police, Inspectors General of Police, Deputy Inspectors General of Police and other officers, as may be appointed.

(2) The administration of Police in a district shall vest in the District Superintendent of Police.

(3) Administration means the management of the Police service subject to law, rules and regulations; and will include framing of regulations, supervising the functioning of the police at all levels, appointment to subordinate ranks of the Police service, deployment of the Police personnel, posting, transfer and the requisite disciplinary action up to and including the rank below that of Inspector of Police, and advising the Government on the placement of officers of the rank of Assistant/Deputy Superintendent of Police and above:

Provided that the State Government may intervene in the exercise of the administrative powers by the Director General of Police or any other authorized officer, only in accordance with the prescribed rules, regulations or in exceptional circumstances involving urgent public interest, the reasons for which should be recorded in writing.

Powers and responsibilities of the Director General of Police

51. As Head of the State Police, it shall be the responsibility of the Director General of Police to: -

(i) advise the Government and the State Police Board in all matters of policing;

(ii) implement the policies, the Strategic Policing Plan and the Annual Policing Sub-Plan approved by the State Police Board;

(iii) administer and supervise the police service to ensure its efficiency, effectiveness, responsiveness and accountability;

(iv) issue directions irrespective of any general executive instructions to the contrary but subject to the provisions of this Act and the rules made there-under, for recruitment of constabulary and Group 'C' officers to fill in existing and anticipated vacancies in accordance with the sanctioned strength, as per provisions of the recruitment rules.

Police Establishment Committee

52. (1) There shall be a State Police Establishment Committee headed by the Director General of Police and comprising the heads of the Intelligence, CID, Law and Order and one other officer not below rank of Inspector General of Police nominated by the Director General of Police into the Committee. The Committee shall be responsible for : -

(i) approving all posting and transfers of officers below the rank of Deputy Superintendent of Police between the various wings of the Police organization, and deputation outside the organization with the approval of the State Government, and for inter-district transfers in all the wings :

Provided that in respect of any transfer to from a district the committee shall take into account the recommendation of the concerned District Superintendent of Police and in case the recommendation is not accepted the committee shall record its reasons for not accepting the same;

(ii) issue of general policy directions and Standing Orders to the committees constituted for making postings and transfers within a unit or district as provided under sub-section (2);

(iii) hearing and disposing of appeals against transfer orders issued by authorities subordinate to the Director General of Police;

(iv) recommending proposals for transfer of officers of the rank of Deputy Superintendent of Police and above to the State Government subject to provisions of this Act;

(v) making recommendations to State Government with regard to representations in service matters from officers of the rank of Deputy Superintendent of Police and above and dealing with all establishment matters not covered by any other Board.

(2) With the previous consent of the State Government the Director General of Police may constitute a Committee for any specific unit within the Police organization for making postings and transfers within such unit or a district.

Procedure for promotion of Police Officers

53. Promotion to each rank in the Police Service shall be based on seniority cum merit, to be evaluated through the result of a qualifying examination and performance evaluation in respect of each officer. The Director General of Police shall, with the approval of the State Government, frame the evaluation criteria for each rank and category of Police personnel:

Provided that for the officers of the Indian Police Service such evaluation criteria shall be as framed by the Government of India.

Training cum Education Policy for the Police

54. (1) The State Government shall lay down a Training-cum- Education Policy covering all ranks and categories of Police personnel. This Policy shall ensure that all Police personnel are adequately trained to perform their job taking due care of proper attitudinal development, and shall be linked to career development scheme of police personnel in different ranks and categories.

(2) The policy shall also aim to promote a service culture of Police personnel acquiring appropriate educational and professional qualifications as they advance in their careers.

Financial Management

55. (1) The Director General of Police shall be responsible for submitting the budgetary requirements of the Police service as a whole to the State Government sufficiently in advance in the preceding financial year.

(2) The budgetary requirements shall be worked out on the basis of realistic needs of each branch, wing, unit and sub-unit of the police service, obtained from the unit officers concerned.

(3) The District Superintendents of Police shall take special care to ensure that the financial requirements of each Police Station in the Districts are worked out meticulously and adequately projected in the budgetary demand of the District.

(4) The budgetary allocation made by the legislature shall be placed at the disposal of the Director General of Police who shall be vested with powers to spend the amounts earmarked under each head of the budget as per the financial rules of the state and directions given by the state government from time to time.

Police Gazette

56. The Director General of Police shall cause to be published each quarter a Police Gazette containing Departmental Orders, Notifications and Circulars relating to the Police for circulation within the Police organization, and may publish appropriate portions of the publication on the website of Police Department.

CHAPTER VI

Role, Functions, Duties and Responsibilities of the Police

Role, functions and duties of the Police

57. The role and functions of the Police shall broadly be :-

(a) to uphold and enforce the law impartially, and to protect life, liberty, property, human rights and dignity of the members of the public;

(b) to promote and preserve public order and prevent nuisances in public places;

(c) to protect internal security, to prevent and control terrorist activities, breaches of communal harmony, militant activities and other situations affecting Internal Security;

(d) to protect public properties including roads, railways, bridges, vital installations and establishments etc. against acts of vandalism, violence or any kind of attack;

(e) to prevent crimes, and reduce the opportunities for the commission of crimes through preventive action, intelligence gathering and community participation;

(f) to accurately register all complaints and take prompt follow-up action thereon, after duly acknowledging the receipt of the complaint;

(g) to register and investigate all cognizable offences coming to their notice through such complaints or otherwise, duly supplying a copy of the First Information Report to the complainant, and where appropriate, to apprehend the offenders, and extend requisite assistance in the prosecution of offenders;

(h) to create and maintain a feeling of security in the community, and as far as possible prevent conflicts and promote amity;

(i) to provide, as first responders, all possible help to people in situations arising out of natural or man-made disasters, and to provide active assistance to other agencies in relief and rehabilitation measures;

(j) to aid individuals who are in danger of physical harm to their person or property, and to provide necessary help and afford relief to people in distress situations;

(k) to facilitate orderly movement of people in public places, ensure their general safety and security, and regulate fairs, events and processions for the purpose;

(l) to control and regulate traffic on streets, roads and highways and generally in public places, and prevent obstruction;

(m) to collect intelligence relating to matters affecting public peace, and all kinds of crimes including social and economic offences and organized crime, communalism, extremism, terrorism and other matters relating to national security, and disseminate the same to all concerned agencies, besides acting as appropriate on it themselves;

(n) to take charge, as a Police Officer on duty, of all unclaimed property, and take action for their safe custody and disposal in accordance with the procedure prescribed;

(o) to provide guards in accordance with the standing orders issued in this behalf for treasuries, lock ups and other locations as sanctioned by the Government from time to time;

(p) to provide escorts over prisoners or for valuables in accordance with standing orders issued by the Director General of Police from time to time;

(q) to perform such other functions as may be required in accordance with this Act and any other law for the time being in force.

Social responsibilities of the Police

58. Every police officer shall-

(a) behave with the members of the public with due courtesy and decorum, particularly so in dealing with senior citizens, women, and children;

(b) guide and assist members of the public, particularly senior citizens, women, children, the poor and indigent and the physically or mentally challenged individuals who may need help and protection;

(c) provide all requisite assistance to victims of crime and of road accidents, and in particular ensure that they are given prompt medical aid irrespective of medico-legal formalities, and provide all such information and documents as would facilitate their or their next of kin's compensation and other legal claims;

(d) ensure that in all situations, especially during conflict between communities, classes, castes and political groups, the conduct of the Police is always governed by the principles of impartiality and human rights norms, with special attention to protection of weaker sections including minorities;

(e) prevent harassment of women and children in public places and public transport, including stalking, making objectionable gestures, signs, remarks or harassment caused in any way;

(f) render all requisite assistance to the members of the public, particularly women, children, and the poor and indigent persons, against criminal exploitation by any person or organized group; and

(g) arrange for legally permissible sustenance and shelter to every person in custody and making known to all such persons the previsions of legal aid schemes available from the Government and also inform the authorities concerned in this regard.

Duties of the Police

59. (1) The primary duty for the role and functions of the Police under this Act shall, unless specified otherwise, be with the Police of the District concerned headed by the District Superintendent of Police:

Provided that the State Government may by general order create or designate special units at the State, District or Police Station level for investigation, traffic, Intelligence, Law and Order etc. and in such a case the responsibility for the discharge of the function shall be with such Unit.

(2) It shall be the duty of every Police officer posted to a State Unit or the District Police and any unit therein, to discharge the role and functions assigned, to the best of his ability by the proper exercise of the powers conferred upon him under this Act or any other law for the time being in force.

(3) Subject to the general or specific orders that may be made by the State Government in this behalf, the Director General of Police or the District

Superintendent of Police may, on being satisfied about the necessity for so doing, depute requisite number of Police personnel for the protection of a person or his property or for the organization of an event or for execution of any work authorized by a competent authority, for such time as may be deemed feasible and proper :

Provided that deputation of Police personnel for such purposes may be at the cost of the applicant or the protectee or the organizers of the event payable at the rates and in the manner as may be prescribed by the State Government.

Duties in emergency situations

60. (1) The State Government may, by notification in the Official Gazette, declare any specified service to be an essential service to the community, for a specified period, which may be extended from time to time, by a notification, as may be deemed necessary.

(2) Upon a declaration being made under sub-section (1) and so long it remains in force, it shall be the duty of every Police Officer to obey lawful orders of his superior officers for the maintenance of the essential service.

Senior police officer performing duties of subordinate officer

61. A senior Police Officer may perform any duty assigned by law or by a lawful order to any officer subordinate to him, and may aid, supplement, supersede or prevent any action of the subordinate officer by his own action or that of any person lawfully acting under his command or authority, whenever the same shall appear necessary or expedient of giving more complete or convenient effect to the law or for avoiding any infringement thereof.

All persons bound to comply with the reasonable directions of Police Officer

62. All persons shall be bound to comply with the reasonable and lawful directions given by a Police Officer in the discharge of his duties under this Act. Where any person resists, refuses or fails to comply with any such direction, a Police officer may, without prejudice to any other action he may take under any other provision of this Act or any other law for the time being in force, remove such person or arrest and produce him before the nearest Magistrate within a period of twenty four hours.

Arrest and Detention

63. (1) A Police officer effecting arrest or detaining a person arrested in accordance with the Law shall,-

(i) wear accurate, visible and clear identification, with name tags;

(ii) prepare a memo of arrest at the time of arrest giving the date and time of the arrest, and forthwith send a written communication to his immediate superior;

(iii) inform the person arrested, of his right to have some one of his choice as a next friend, notified of his arrest or detention as soon as he is put under arrest or is detained, and forthwith cause such a person to be notified;

(iv) make an entry in the diary at the place of detention regarding the arrest of the person specifying the name of the next friend of the person arrested who has been informed of the arrest and the names and particulars of the Police Officials in whose custody the person arrested is kept;

(v) arrange for immediate medical examination by a doctor designated for the purpose and for further medical examination every 48 (forty-eight) hours during his detention in custody;

(vi) send copies of all the documents including the memo of arrest referred to above, to the Magistrate having jurisdiction, for his record;

(vii) permit the person arrested to meet his lawyer in such manner as may be prescribed;

(viii) cause the name and other particular of the person arrested to be displayed in the notice board at the place of detention and at such other places as may be prescribed;

(ix) inform the arrested person, of his right to engage a lawyer and of the provisions of Legal Aid Authority for getting free legal aid.

(2) In making an arrest or keeping an arrested person in custody, only that amount of force shall be used as may be reasonably required to ensure that there is no possibility to escape. Handcuffing of a person arrested or in lawful police custody shall be resorted to only where there is a reasonable apprehension that such a person may turn violent, attempt suicide, escape or be forcibly released from arrest or detention.

Conduct prohibited for Police Officers

64. (1) No Police Officer shall withdraw himself from duties of his office unless expressly allowed to do by the competent authority.

(2) No Police officer shall resign his office unless he has given notice in writing to his superior officer of not less than one month, and it has been accepted as per the rules prescribed by the State Government for its employees.

(3) No Police officer shall engage in activity of any other office unless expressly permitted to do so in writing by the Director General of Police or an officer authorized by him.

CHAPTER VII

Policing in Rural Areas and Village/Town Police System

Police Stations cove ring rural or town areas

65. Police Stations covering rural or town areas shall be so organized as to be reasonably self-sufficient in matters of accommodation, amenities as well as in communication facilities, transport and Police housing. Each Police Station will also be equipped with adequate facilities of forensic science and scientific aids to investigation.

Security of Police Stations

66. Special attention shall be paid to the security of each Police Station, particularly in areas prone to violence or mass disturbances.

Police Beat

67. The jurisdictional area of a Police Station shall be divided into suitable number of Beats, each covering a cluster of villages or a specified town area, to be kept under the direct charge of a Constable, Head Constable or an Assistant Sub-Inspector (called Beat Officer) for maintaining regular and close contact with the villages under his charge.

Beat Police Officer

68. The Station House Officer shall ensure that every village or town area in his jurisdiction is covered by a Beat Police Officer as per the minimum frequency prescribed by the Superintendent of Police by a general or special order.

Duties and responsibilities of Beat Officer

69. The duties and responsibilities of the Beat Officer shall, inter-alia, be-

(a) to liaise with community elders, members of the Community Liaison Group, if any, the Village Defence Party, the Village Guard, and the residents of each village under his charge, and to review, during every visit, the crime prevention measures in the village;

(b) to collect information relating to crimes and criminals and activities of subversive, militant and anti-social nature, if any, in the village and communicate the same to the Station House Officer;

(c) to maintain watch over history-sheeted criminals, if any, and others with criminal record or bad characters;

(d) to acquaint himself with local disputes having potential for violence or with caste or communal overtones, and inform the Station House Officer of the same with all available details;

(e) to carry out any other policing task in respect of the village assigned by the District Superintendent of Police or by Station House Officer through general or special order.

(f) to record any public grievances and complaints in relation to policing; and

(g) to maintain a record of aforesaid duties and responsibilities carried out by him during his visit and submit the same regularly to the officer in charge of the Police Station.

Village visit by Station House Officer and supervisory officer

70. (1) The Station House Officer shall visit every village under his jurisdiction, as per the minimum frequency prescribed by the Superintendent of Police through a general or special order, and shall interact with as many local residents as possible so as to assess the level of public satisfaction with the police.

(2) All supervisory officers including the Superintendents of Police shall regularly visit as many villages in their jurisdiction as possible. The purpose of such visits shall be to review the general state of crime, the law and order situation and the activities, if any, of violent and militant individuals or groups in the

area and to interact with as many local residents as possible so as to assess the level of public satisfaction with the police.

(3) The Station House Officer shall cause to be maintained a Village Register, entering therein major crimes incidents or potential for crime in a village or town area based inter alia on the report of the Beat Officer, his information and that of his superior officers.

Village Police System

Enlistment of Village Guard and Selection Criteria

71. The State Government may by notification provide for the establishment of a Village Guard for a village or cluster of villages to be enlisted by the District Superintendent of Police from amongst able-bodied persons of either gender, between the age of 21 and 60 years and with unimpeachable character and antecedents who are permanent residents of that village, possessing the ability to read and write in the local language, who have not been convicted by a Court of law or have not had charges framed against them by a Court of law in a criminal case, or dismissed, removed, discharged or compulsorily retired from any employment on grounds of corruption, moral turpitude or misconduct, and who are not active members of any political party, or organization allied to a political party or a militant outfit.

Tenure of Village Guard

72. A person enlisted as Village Guard will normally have a tenure of three years, which may be renewed upon satisfactory performance. No renewal shall, however be granted to a person after he crosses the age of sixty years or who has served for three consecutive terms or who incurs any other condition of ineligibility specified in the foregoing section.

Removal of Village Guard

73. A Village Guard shall be removed from the assignment at any time during the currency of his enlistment if he incurs any condition of ineligibility stipulated in Section 71.

Village Guard to be public Servant

74. The Village Guard shall be a public servant as defined in the Indian Penal Code, 1860.

Training of Village Guard

75. The Superintendent of Police shall ensure that every person, on his induction as a Village Guard, is administered a training course of a duration and as per the syllabus prescribed by the Director General of Police. Periodical refresher training shall also be organized for those who are re-enlisted as Village Guard, for each renewed term.

Oath or Affirmation by Village Guard

76. Every person enlisted as Village Guard shall take an oath or affirmation, as prescribed before the Station House Officer concerned.

Honorarium and identification badge of Village Guard

77. Each Village Guard will be provided with an identification Badge and a reasonable monthly honorarium and due out-of-pocket expenses as prescribed by the District Superintendent of Police. The honorarium so fixed shall not be less than that paid to a Home Guard in the State.

Return of Identification Badge etc. by Village Guard

78. Any person who for any reason ceases to be a Village Guard shall forthwith deliver up to the Superintendent of Police or to an officer authorized by him his Identification Badge and all records and documents maintained by him as the Village Guard.

Duties and Responsibilities of Village Guard

79. The duties and responsibilities of the Village Guard shall include-

(a) reporting the occurrence of any crime or law and order situation in the village, at the earliest, to the Police, and assisting the Police in bringing the offenders to book;

(b) maintaining a general vigil in the village from the point of view of crime prevention or prevention of a law and order problem and promptly informing the Police about the same;

(c) remaining alert and sensitive to any information about any suspicious activity, movement of suspicious persons or development of any conspiracy in the village that is likely to lead to a crime or breach of law and order, and promptly passing on such information to the Police;

(d) assisting any citizen in arresting or handing over to the Police Station any person or persons under Section 43 of the Code of Criminal Procedure, 1973, along with the arms, ammunition, property or any objectionable or suspicious object, if any, seized from him, without delay;

In case the arrested person is a woman, a male Village Guard shall be accompanied by a woman;

(e) securing and preserving the scene of any crime till the arrival of the Police, duly ensuring that it is not disturbed by curious onlookers or any unauthorized person;

(f) meeting the Station House Officer at a minimum frequency as prescribed by the Superintendent of Police through a general or special order, to report on such activities and incidents in the village as would have a bearing on crime, law and order or other concerns,

(g) maintaining the prescribed records and registers;

(h) recording any public grievances or complaints in relation to Policing; and

(i) liaising with the village Panchayat on matters relating to crime and law and order in the village.

Village / Town Defence Parties

80. Wherever it appears, on the basis of information received, that there is likelihood of violence or major crime or damage to property in any area, the Superintendent of Police, in consultation with the District Magistrate, may direct organization of a group of local respectable persons for each village or cluster of villages or town for the purpose of carrying out preventive patrolling, promoting crime reduction measures and generally assisting the Police in their functioning. The group will be called the Village/Town Defence Party and may not normally consist of more than 15 members, with provision for having more than one Village/Town Defence Party if the size and population of the village or cluster of villages so require. The composition of the Party shall reflect the diversity of local population including adequate gender representation.

Induction into Village /Town Defence Parties

81. Members will be inducted into the Village/Town Defence Parties by the Superintendent of Police in consultation with the Community Liaison Group from amongst able-bodied persons, and with good character and antecedents, who are permanent residents of that village or town, who have not been convicted by a Court of law or have not had charges framed against them by a Court of law in a criminal case, or dismissed, removed, discharged or compulsorily retired from any employment on grounds of moral turpitude, corruption or misconduct, or are not connected with any political party or any allied organization thereof. The Superintendent of Police shall appoint one member as leader of the party based on his experience and leadership qualities, and may replace a member or the leader in case his work or conduct is not satisfactory.

Tenure of Village/ Town Defence Parties

82. A Village/Town Defence Party shall be organized for a period not exceeding 30 days. Provided that the period may be extended for a further period of 30 days by the Superintendent of Police in consultation with the District Magistrate, for reasons to be recorded in writing.

Action against Member of Village/ Town Defence Parties

83. In the event of any complaint against Village/Town Defence Party or its members, the Superintendent of Police will take appropriate action, including, if necessary, removal of the concerned members.

Membership to be Voluntary

84. Membership of the Village/Town Defence Party shall be voluntary and honorary. The District Superintendent of Police will make arrangements for the training of the members of Village/Town Defence Party, if deemed necessary.

Identification Badge

85. Members of the Village/Town Defence Party shall wear the identification badge issued by the District Superintendent of Police if considered necessary by him.

Return of Identification Badge etc.

86. Any person who for any reason ceases to be a member of a Village/Town Defence Party shall forthwith deliver, to the Superintendent of Police or to an office authorized by him, his identification Badge and all records and documents maintained by him as a member of the Town Defence Party.

Community Liaison Group

87. The District Superintendent of Police in consultation with the District Magistrate shall constitute a Community Liaison Group for each Police Station, comprising respectable local residents of the area with unimpeachable character and antecedents, including retired public servants and heads of teaching institutions if any, as representatives of the community, to generally advise the Police in their functioning. The Community Liaison Group shall have a fair representation of gender, and all other segments and professions of the society in villages falling in the Police Station area. The Community Liaison Group shall have two representatives nominated by each Panchayat Samiti in the jurisdiction of the concerned Police Station from amongst its members :

Provided that no person convicted by a Court of law or against whom charges have been framed by a Court of law in a criminal case, or dismissed, removed, discharged or compulsorily retired from any employment on grounds of corruption, moral turpitude or misconduct shall be eligible to be inducted into the Community Liaison Group:

Provided further that no person who is connected with any political party or an organization allied to the political party, other than the nominated representative of the Panchayat Samiti, shall be eligible to be inducted into the Community Liaison Group.

Duties and Functions of Community Liaison Group

88. The Community Liaison Group will identify the existing and emerging policing needs of the area, which will be taken into consideration by the Station House Officer while preparing the annual policing strategy and action plan for his jurisdiction for submission to the District Superintendent of Police. The Community Liaison Group shall perform such other functions as prescribed. It will meet as frequently as necessary, and at least once in each quarter of a year. The meetings of the Community Liaison Group shall be attended by the Sub-Divisional Magistrate and Sub-Divisional Police Officer as well as the Station House Officer. The meetings shall be open to the public.

Policing in Urban and other Notified Areas

Police to be associated in urban planning and setting up of new colonies

89. While planning for any major development activity including development of new colonies, the concerned agency shall consult the Director General of Police to assess the likely impact of the proposed developmental activity, on the safety and security needs of the citizens or any other policing requirements, and the suggestions based on such assessment shall be given due consideration in finalizing the plan.

CHAPTER VIII

Policing in the context of public order and Internal Security challenges

Internal Security Scheme

90. (1) The Director General of Police shall, with the approval of the State Government, draw up an Internal Security Scheme for the entire State as well as for each of the districts and major urban areas to deal with problems of Public Order and Security of State, as specific to the area and shall place it before the State Police Board for its approval.

Review of Internal Security Scheme

(2) The internal Security Schemes so formulated shall be reviewed and revised as necessary once in two years, and more frequently if required.

District level Internal Security Scheme

91. District level Internal Security Scheme shall be prepared by the District Superintendent of Police and sent to the Director General of Police along with the endorsement and suggestions of the District Magistrate.

Scheme to cover backward and inaccessible areas

92. (1) The Internal Security Schemes will, as far as possible, cover all major problems the area is prone to or which can otherwise be anticipated in the whole or any part thereof. In preparing the Schemes, the Director General of Police shall give special attention to likely disturbance of public order arising out of non-implementation of developmental programmes in the backward and not-so-easily-accessible areas.

(2) The Schemes will provide that officers deploying the Police to deal with situations of conflict between communities, classes, castes and political groups shall ensure that its composition, as far as possible, reflects social diversity of the area including adequate representation of weaker sections and minorities.

Security of critical infrastructure to be covered by the scheme

93. The Internal Security Scheme shall, inter alia, cover the role of the Police with regard to the security of any establishment or installation relating to critical infrastructure if any located in the area.

Scheme to cover specific security requirement arising out of any activity or programme

94. (1) Any organization, while taking up any activity or programme which is otherwise unobjectionable but may have the potential for disturbing law and order may inform the Police, and thereupon, the Police shall take such measures as deemed necessary to deal with the situation.

(2) While preparing the Internal Security Scheme under Section 90, the Police shall take into consideration the contingencies of special law and order problems, and security requirements that may arise in such situations.

Updated standard operating procedure to be incorporated in the Scheme

95. The Internal Security Schemes will incorporate regularly updated and comprehensive Standard Operating Procedures for the action to be taken by the Police, independently or in coordination with other concerned agencies in the period preceding, during, and in the aftermath of problems of each kind.

CHAPTER IX

Criminal Investigation

Crime Investigation

96. A report of commission of a crime shall be entered in the records of the Police Station forthwith in accordance with the law in such manner and on such format as may be prescribed by the Government by rules or by the Director General of Police through Standing Orders.

Separate crime investigation unit

97. The State Government shall in the Police Stations of such crime-prone areas or urban areas as it may consider necessary, by order separate the investigation of crime from law and order and other Police functions by creating a Special Crime Investigation Unit (CIU), headed by an officer not below the rank of Sub-Inspector of Police, with appropriate strength of officers and staff, for the investigation of economic and heinous crimes.

Selection of officers for Crime Investigation Units

98. The officers posted in Crime Investigation Units will be selected on the basis of their aptitude, competence and integrity. Their professional skills will be upgraded, from time to time, through specialized training in investigative techniques, particularly in the application of scientific aids to investigation and forensic science techniques.

Tenure of officers in CIU

99. Officers posted to Crime Investigation Units will have a reasonable tenure, and will be rotated to law and order and other assignments.

Specific offences to be Investigated by Crime Investigation Units

100. (1) The officers posted to the Crime Investigation Units will investigate crimes such as murder, kidnapping, rape, dacoity, robbery, dowry-related offences, serious cases of cheating, misappropriation and other economic offences as notified by the Director General of Police, besides any other cases specially entrusted to the Unit by the District Superintendent of Police.

(2) All other crimes will be investigated by other Police Officers posted in such Police Stations.

Legal and forensic assistance

101. Necessary legal and forensic assistance will be made available to investigating officers during visit to the scene of crime and during investigation.

Supervision of investigation

102. The investigation of cases taken up by the Crime Investigation Unit personnel, over and above the supervision of the Station House Officer concerned, will be supervised by an officer not below the rank of Deputy Superintendent of Police, who will report directly to the District Superintendent of Police.

Investigations by Criminal Investigation Department

103. (1) The Criminal Investigation Department (CID) of the State shall take up investigation of offences of a more serious nature or those that may have inter-state or inter-district ramifications, and other complex crimes, including economic crimes as notified by the State Government from time to time and as may be specifically entrusted to it by the Director General of Police in public interest.

(2) The Director General of Police may entrust the Criminal Investigation Department with the investigation of any case registered with any Police Station in the State in case special investigation is expeditiously required, or it is necessary to do so to maintain public credibility in the investigative process.

Specialized units for specific crime

104. The Criminal Investigation Department will have specialized units for investigation of cyber crime, organized crime, homicide cases, economic offences, crime relating to women, and any other category of offences, as notified by the State Government and which require specialized investigative skills.

Selection of officers for the Criminal Investigation Department

105. The officers posted to the Criminal Investigation Department will be selected on the basis of their aptitude, professional competence, experience and integrity. They will undergo appropriate training upon induction, and their knowledge and skills will be upgraded from time to time through appropriate refresher and specialized courses.

Legal advisors and experts

106. The Criminal Investigation Department will be provided with an appropriate number of law officers, crime analysts, technical experts, specialists etc. to guide, advise and assist the investigating officers in the Police Stations or the CID.

Funds, powers and facilities for scientific investigation

107. The Criminal Investigation Department shall be provided with adequate staff and funds. The head of this Department and the State Intelligence Department will be vested with the financial powers and privileges of a Head of the Department.

Scientific Aids to Investigation

108. The Criminal Investigation Department shall be equipped with adequate facilities of scientific aids to investigation and forensic science including qualified and trained manpower, in accordance with the guidelines if any issued in this regard by the Directorate of Forensic Science or the Bureau of Police Research and Development of the Government of India.

Investigation Manual and Crime Review

109. (1) The head of the Criminal Investigation Department shall cause to be prepared, within 6 (six) months from the commencement of this Act, a comprehensive Investigation Manual specifying detailed operating procedures for investigation of serious crimes and other crimes, procedure for collection of samples for forensic analysis by the CID and Police Station level CIUs and investigating officers. The Manual along with recommendations of the Director General of Police shall be placed before the State Police Board for its approval within 9 months of the commencement of this Act.

(2) The Criminal Investigation Department shall publish a periodical Criminal Investigation Gazette/Crime Review, giving information regarding crime, arrests, wanted persons, warnings etc., in such form and with such content as the Director General of Police may direct from time to time. The Gazette shall be widely circulated, and published on the website of the Police Department.

Maintenance of Crime & Forensic Data Bank and Fingerprint Bureau

110. (1) The State CID shall maintain databank of all indices important for crime investigation, crime prevention and tracing of lost and missing persons and property, and shall administer the State Crime Records Bureau and District Crime Record Bureau for the purpose.

(2) The CID shall maintain adequate linkages with District Superintendents of Police and with the National Crime Records Bureau for data updating and exchange.

(3) The CID shall have a Finger Print Bureau to be headed by an officer of appropriate rank. The Bureau shall maintain computerized, searchable databanks of finger prints, including those collected in the course of investigation by the Bureau or by the District Police. The State Finger Print Bureau shall coordinate activities with similar agencies in other States and Government of India. The Finger Print Bureau shall provide training to investigating officers of the District Police and develop standard operating procedure for lifting, developing and matching finger prints in various circumstances, and shall publish a Finger Printing Manual for the purpose.

CHAPTER X

Training, Research and Development

Training cum Education Policy

111. The State Government shall evolve a Training-cum -Education Policy for the Police in accordance with the provisions of this Act, keeping in view the current and anticipated requirements of policing. The policy will, as far as possible, take into account any guidelines in respect of Police training as may be issued by the Union and the State Government from time to time. The training policy shall aim at achieving the objectives of imparting knowledge in Police subjects, developing professional skills inculcating the right attitudes, and promoting Constitutional and ethical values among Police personnel.

Training to be linked to promotion and posting

112. The training policy shall ensure that Police personnel are adequately trained to efficiently perform their job. Successful participation in appropriate training programmes shall be linked as far as possible, to the promotion of Police personnel of different ranks, and to their posting to different assignments in a structured manner, as notified by the State Government from time to time.

Methodology in Evolving Training Policy

113. In evolving the training policy, optimum advantage shall be taken of the methodologies of distance learning, outsourcing and on the job training.

Infrastructure of Training Institutions

114. The State Government shall create and upgrade from time to time, the infrastructure and capabilities of training institutions in consonance with the holistic training needs of Police personnel of different ranks, which shall include, besides all types of specialized training, a compulsory refresher training course of appropriate duration for all ranks periodically. For this purpose the State Government may also create a suitable training centre with the requisite infrastructure in the districts or in the Armed Police Battalions.

Training in Central and Regional Police Training Institutions

115. The State Government shall ensure that full advantage is taken of the training facilities available in central and regional police training institutions, to adequately train Police personnel of the State in specialized professional subjects, and to train the trainers of the State Police training institutions.

Guidelines of Bureau of Police Research etc. to be taken into consideration for Training

116. In upgrading their training infrastructure as well as the content and methodologies of training courses, the training institutions shall take maximum advantage of the standards and practices evolved or guidelines issued by organizations such as the Bureau of Police Research and Development of Government of India, and the National Police Academy.

Assistance from Bureau of Police Research and Development etc.

117. For an objective periodical evaluation of the training policy of the State and its implementation, the State Police may utilize the available assistance of organizations such as the Bureau of Police Research and Development of Government of India.

State Bureau of Police Research and Development

118. The State Government may establish a State Bureau of Police Research and Development with provision for appropriate staff, funds and other resources to regularly undertake research and analysis on all such subjects and issues which may lead to improvement in the standards of Police functioning and performance. The State Government may also sponsor, in other reputed organizations and institutions, special studies and research in subjects having relevance to policing.

Development of Scientific and Technical Assistance

119. The State Government may also take appropriate measures to harness developing technology for scientific and technical assistance in the investigation and detection of crime, and other policing tasks.

Functions of State Bureau of Police Research and Development

120. The tasks of the State Bureau of Police Research and Development, when constituted, shall include :-

(a) preparation of five-year Perspective Plans to modernize and upgrade Police infrastructure with the objective of enhancing the professional competence and efficient management of the Police Service. This Plan shall cover mobility, weaponry, communication, training, forensic infrastructure, equipments and protective gears, official and residential accommodation, and any other subject which may have a bearing on qualitative improvement in policing;

(b) keeping abreast of the latest equipment and innovative technologies successfully introduced by other Police organizations within the country or abroad, and assessing the adaptability or otherwise of such equipment and technologies by the State Police. These may include new products, arms and ammunition, riot control equipment, traffic control equipment, Police transport and various scientific and electronic equipments useful for scientific aids to investigation or other policing tasks;

(c) liaising and coordinating with the Bureau of Police Research and Development of Government of India, the academia, reputed scientific organizations, institutions and laboratories and private sector undertakings on relevant matters;

(d) studying specific and developing problems of policing in the State with the objective of evolving solutions and remedial measures;

(e) examining the prevalent system of policing and suggesting structural, institutional, and other changes that need to be introduced in the Police to make its functioning more efficient and responsive; and concurrently evaluating and documenting the impact of modernization and training policies of the State Police and reporting its findings to the Director General of Police and the State Government.

CHAPTER XI

Regulation, Control and Discipline

Framing of rules for administration of Police

121. Subject to any rules and regulations made in this regard by the State Government the Director General of Police shall make rules, regulations or issue orders, not inconsistent with this Act or with any other enactment for the time being in force, in respect of the following, amongst others, for-

(a) prevention and investigation of crime;

(b) effective prosecution of offences, including filing of appeals;

(c) maintenance of law and order;

(d) regulation and inspection of the Police organization and of the work performed by Police officers;

(e) determining the description and quantity of arms, accoutrements, clothing and other wherewithal to be provided to the Police Service;

(f) prescribing the places of residence of members of the Police Service;

(g) institution, management and regulation of any Police fund for purposes connected with the Police administration including reward to informers or welfare of Police personnel etc.;

(h) regulation, deployment, movements and location of the Police;

(i) assigning duties to officers of all ranks and grades and prescribing the manner and the conditions subject to which they shall exercise and perform their respective powers and duties;

(j) regulating the collection and communication of intelligence and information by the Police;

(k) prescribing the records, registers and forms to be maintained and the returns to be submitted by different Police units and officers;

(l) computerization of Police records and police working; and

(m) generally, for the purpose of rendering the police more efficient,and preventing abuse of power and neglect of duties by them.

Prohibition of certain practices

122. No Police officer shall join or be a member of any association or participate in the activities of such association which has an objective,or which aims at collective negotiation, on matters relating to the Police service.

Disciplinary Penalties

123. (1) Subject to the provisions of Article 311 of the Constitution and the rules and regulations made under this Act, an officer of the rank of Superintendent of Police or above may award any of the following punishment to a police officer of a rank for which he is the appointing authority-

(a) reduction in rank (provided that such reduction in rank shall not be to a rank below the rank in which such officer was recruited);

(b) compulsory retirement;

(c) removal from service; or

(d) dismissal.

(2) Any Police officer of the rank of Superintendent of Police or above, subject to the rules made in this behalf, may award any of the following punishments to any Group 'C' Police officer under his official control-

(a) reduction in pay;

(b) withholding of increment;

(c) withholding of promotion;

(d) fine not exceeding one month's pay; or

(e) reprimand or censure.

(3) An Assistant Superintendent of Police or an officer of equivalent rank may award the punishment of reprimand or censure to an officer of or below the rank of Sub Inspector of Police.

(4) Any officer of and above the rank of Inspector of Police may award punishments to Constables and Head Constables, as prescribed in the rules framed under this Act.

(5) Any punishment mentioned in sub-sections (1), (2), (3) or (4), awarded to an officer, will not affect his liability for prosecution for any criminal offence committed by him.

Suspension

124. (1) A Police officer of or above the rank of Superintendent of Police may place a Police officer of the rank of Inspector of Police or below subordinate to him, under suspension-

(a) where a disciplinary proceeding for award of punishment against him is contemplated or is pending;

(b) where in the opinion of the aforesaid authority, there is a prima facie case that such officer has engaged himself in activities prejudicial to the security of State; or

(c) where in the opinion of the aforesaid authority there is prima facie evidence in respect of any criminal offence under investigation, inquiry or trial.

(2) Every order of suspension passed under this section shall be in writing giving briefly the reasons.

(3) Where an officer is placed under suspension, whether in connection with a disciplinary proceeding or otherwise, and another disciplinary proceeding is ordered against him during the currency of that suspension, the authority competent to place him under suspension may, for reasons to be recorded in writing, direct that the officer shall continue to be under suspension until the completion of all or any of such proceedings.

(4) An order of suspension so made may at any time be revoked or modified, or in any case be reviewed every six months or earlier, suo motu or on a representation made by the officer under suspension, by the authority which made the order or by any authority to which such authority is subordinate.

(5) In every case where the period of suspension exceeds one year, the case shall be reported to the Director General of Police who shall thereafter report the same to the State Police Board.

Misconduct

125. A Police officer shall, in addition to any other delinquent act or behaviour as specified in the relevant rules, be liable for disciplinary action for any of the following misconduct, namely:-

(a) disobedience of lawful orders;

(b) neglect of duty;

(c) insubordination or oppressive conduct;

(d) malingering or unauthorized absence from duty;

(e) act of cowardice;

(f) misuse of authority; or

(g) any act unbecoming of a Police officer.

Appeal against orders of punishment

126. (1) An appeal against any order of punishment passed against an officer under this Act or any rules made there under, shall lie:

(a) where the order is passed by the Director General of Police, to the State Government; and

(b) where the order is passed by an officer subordinate to the Director General of Police, to the officer next higher in rank in the Police hierarchy who passed such order.

(2) No appeal shall lie after a period of 45 (forty-five) days of passing the order of punishment :

Provided that the State Government or the Director General of Police may relax the period within which the appeal should be filed for just and sufficient reasons to be recorded in writing.

Separate set of rules for Police personnel

127. The State Government shall frame the classification, control and appeals rules for Police personnel, which will, among other things, ensure timely disposal of disciplinary proceedings.

Police officers always on duty

128. (1) Every Police Officer not on leave or under suspension shall, for all purposes of this Act, be considered to be always on duty and may at any time be deployed in any part of the State.

(2) Notwithstanding the grant of compensatory benefits in lieu of holidays or weekly off or for service beyond office working hours the appropriate Police authorities and the State Government shall ensure that all Police personnel get reasonable number of holidays and time offs.

Police officer not to abdicate duty without proper authorization

129. No Police Officer shall abdicate his duties or withdraw himself from his place of posting or deployment without proper authorization.

Explanation: An officer who, being absent on authorized leave fails without reasonable cause to report for duty at the expiration of such leave, shall be deemed within the meaning of this section to withdraw himself from the duties of his office.

Police officer not to engage in employment or office of profit

130. No Police Officer shall engage in any employment or office of profit whatsoever, other than his duties under this Act unless expressly permitted to do so in writing by the Central or State Government in case of Indian Police Service and State Police Service officers respectively, and the Director General of Police in every other case.

CHAPTER XII

Police Accountability

Additional mechanism for Police accountability

131. In addition to the existing mechanisms, functions, duties and responsibilities of the departmental authorities, accountability of the Police shall be further ensured through the additional mechanism detailed in this chapter.

Accountability for conduct

Police Accountability Commission

132. The State Government shall establish a Police Accountability Commission (hereinafter referred to as "the Commission") consisting of a Chairperson, Members and such other staff as may be necessary, to enquire into public complaints supported by sworn statement against the Police officers for serious misconduct and perform such other functions stipulated in this Chapter:

Composition of the Commission

133. The Commission shall have three members with a credible record of integrity and commitment to human rights and shall consist of-

(a) A retired High Court Judge who shall be the chairperson of the Commission;

(b) A retired officer not below the rank of Secretary/ Commissioner to the State Government or a police officer superannuated in the rank not below that of the Inspector General of Police, with experience in public administration ;

(c) One person of repute and standing from the civil society :

Provided that at least one member shall be woman and not more than one member shall be a retired Police officer.

Selection of Chairperson and Members of the Commission

134. (1) The Chairperson of the Commission shall be appointed from a panel of retired High Court Judges, received from the Chief Justice of the High Court of Sikkim.

(2) Members of the Commission, other than the Chairperson, shall be appointed on the recommendation of the selection panel constituted under this Act for the appointment of the independent members of the State Police Board.

(3) Vacancies in the Commission shall be filled up as soon as practicable and in no case later than three months after a seat has fallen vacant.

(4) In selecting members of the Commission the Panel shall adopt a transparent process.

Ineligibility for membership

135. A person shall be ineligible to be member of the Commission, if he -

(a) is not a citizen of India;

(b) is above 70 years of age;

(c) is serving in any police, military or allied organization;

(d) is employed as a public servant;

(e) holds any elected office, including that of Member of Parliament or State Legislature or any local body;

(f) is a member of, or is associated in any manner with, an organization declared as unlawful under an existing law;

(g) is an office bearer or a member of any political party;

(h) has been convicted for any criminal offence involving moral turpitude or for an offence punishable with imprisonment of one year or more;

(i) is facing prosecution for any offence mentioned in clause (h) above and against whom charges have been framed by a Court of law; or

(j) is of unsound mind and has been so declared by a competent Court.

Term of office and conditions of service of Chairperson and Members

136. (1) The term of office of the Chairperson shall be 5 (five) years, and that of a member three years, unless-

(a) he resigns at any time before the expiry of his term ; or

(b) he is removed from the office on any of the grounds mentioned in Section 135.

(2) The Chairperson and Members shall be eligible for reappointment on the expiry of term.

(3) The remuneration, allowances and other terms and conditions of service of the members shall be as notified by the State Government from time to time.

Removal of Chairperson and Members

137. The Chairperson or any Member of the Commission may be removed from office on the recommendation of the State Police Board, by an order of the State Government on the grounds of-

(a) proven misconduct or misbehavior;

(b) persistent neglect to perform duties of the Commission;

(c) occurrence of any situation that would make a member ineligible for appointment to the Commission under Section 135; or

(d) any member engaging himself during his term of office in any paid employment outside the duties of his office.

Staff of the Commission

138. (1) Members of the Commission shall be assisted by adequate staff with requisite skills, for efficient discharge of the functions of the Commission.

(2) The strength of the staff, their remuneration and conditions of service shall be as prescribed by the State Government, keeping in view the size of the State, its population and the average number of complaints against the Police, the additional functions entrusted to the Commission, and shall be periodically reviewed and revised.

(3) The subordinate staff shall be selected by the Commission inter alia, on a contractual basis, through a transparent process.

(4) The remuneration and other terms and conditions of service of the staff shall be prescribed from time to time.

Conduct of business

139. The Commission shall devise its own rules for the conduct of its business.

Functions of the Commission

140. (1) The Commission shall inquire into allegations of "serious misconduct" against police personnel, as detailed below, either suo motu or on a complaint received from any of the following-

(a) a victim or any person on his behalf;

(b) the National, or the State Human Rights Commission if constituted;

(c) the Police; or

(d) any other source.

Explanation : "serious misconduct" for the purpose of this chapter shall mean any act or omission of a Police officer that leads to or amounts to-

(a) death in police custody;

(b) grievous hurt, as defined in section 320 of the Indian Penal Code,1860;

(c) rape or attempt to commit rape; or

(d) arrest or detention without due process of law :

Provided that the Commission shall inquire into a complaint of such arrest or detention, only if it is satisfied prima facie about the veracity of the complaint.

(2) The Commission may also inquire into any other case referred to it by the Director General of Police if, in the opinion of the Commission, the nature of the case merits an independent inquiry.

(3) The Commission may monitor the status of departmental inquiries and action on the complaints of 'misconduct' against Group 'A', Group 'B' and Group 'C' police personnel through quarterly reports obtained from the Director General of Police and issue appropriate advice to the Police department for expeditious completion of inquiry, if in the Commission's opinion such inquiry or action on the complaints is getting unduly delayed.

(4) The Commission may also call for a report from and issue appropriate advice for further action or if necessary a direction for a fresh inquiry by another officer, to the Director General of Police when a complainant, being dissatisfied by the outcome of, or inordinate delay in the process of, departmental inquiry into his complaint of "misconduct" by a Police officer, brings such matter to its notice.

(5) The Commission may lay down general guidelines for the State Police to prevent misconduct on the part of the police personnel; and

(6) The Commission shall also perform the functions of the State Human Rights Commission listed under section 12 of the Protection of Human Rights Act, 1993, for the State of Sikkim and make suitable recommendations to the Government and the authority concerned. In performing such functions the Commission shall be provided all necessary information/ assistance as it may reasonably require, by all concerned.

Powers of the Commission

141. (1) In the cases directly enquired by it, the Commission shall have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1905 and in particular in respect of the following matters-

(a) summoning and enforcing the attendance of witnesses and examining them on oath;

(b) discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing authorities for the examination of witnesses or documents; and

(f) any other matter as may be prescribed.

(2) The Commission shall have the power to require any person subject to legal privilege, to furnish information on such points or matters as, in the opinion of the Commission, maybe useful for, or relevant to, the subject matter of the inquiry, and any person so required shall be deemed to be legally

bound to furnish such information within the meaning of Sections 176 and 177 of the Indian Penal Code, 1860.

(3) The Commission shall be deemed to be a civil court and when any offence, as defined in sections 175, 178, 179, 180 or 228 of the Indian Penal Code, 1860, is committed in the view or presence of the Commission, the Commission may, with the prior sanction of the State Government, and after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1973, forward the case to a Magistrate having jurisdiction to try the same. The Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case has been forwarded to him under section 346 of the Code of Criminal Procedure 1973.

(4) Every proceeding before the Commission shall be deemed to be a judicial proceeding within the meanings of Sections 193 and 228 and for the purposes of Section 196 of the Indian Penal Code 1860, the Commission shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

(5) The Commission shall have the power to advise the State Government on measures to ensure protection of witnesses, victims and their families who might face any threat or harassment for making the complaint or for furnishing evidence.

(6) The Commission may visit any Police Station lock-up or any other place of detention used by the police and if it thinks fit it may be accompanied by a Police officer.

Statements made to the Commission

142. No statement made by a person in the course of giving evidence before the Commission shall subject that person to a civil or criminal proceeding or be used against him in such proceeding, except a prosecution for giving false evidence :

Provided that the statement-

(a) is made in reply to the question which he is required by the Commission to answer; or

(b) is relevant to the subject matter of the inquiry :

Provided further that on conclusion of the inquiry into a complaint of 'serious misconduct' against the Police personnel, if the Commission is satisfied that the complaint was vexatious, frivolous or malafide, the Commission may impose such fine as considered appropriate on the complainant.

Persons likely to be prejudicially affected to be heard

143. If, at any stage of the inquiry, the Commission considers it necessary to inquire into the conduct of any person, or is of the opinion that the reputation of any person is likely to be prejudicially affected by the inquiry, it shall give that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his support:

Provided that nothing in this Section shall apply where the credibility of a witness is being impeached.

Decisions and recommendations of the Commission

144. (1) In the cases directly inquired by the Commission, it may, upon completion of the inquiry, communicate its findings to the Director General of Police and the State Govemment with a recommendation to-

(a) register a First Information Report; and/or

(b) initiate departmental action based on such findings,duly forwarding the evidence collected by it to the Police:

Provided that the Commission, before finalizing its opinion in all such cases shall give the Director General of Police an opportunity to present the department's view and additional facts, if any:

Provided further that, in such cases, the Commission may review its findings upon receipt of additional information from the Director General of Police that may have a material bearing on the case.

(2) The Commission may also recommend to the State Government payment of monetary compensation by the Government to the victims of the subject matter of such an inquiry.

Reports of the Commission

145. (1) The Commission shall prepare an annual report at the end of each calendar year, inter alia, containing-

(a) the number and type of cases of "serious misconduct" inquired into by it;

(b) the number and type of cases of "misconduct" referred to it by the complainants upon being dissatisfied by the departmental inquiry into his complaint;

(c) the number and type of cases including those referred to in (b) above in which advice or recommendation was issued by it to the police for further action;

(d) the identifiable patterns of misconduct on the part of Police personnel in the State; and

(e) recommendations on measures to enhance police accountability.

(2) The annual report of the Commission shall be laid before the State Legislature in the budget session and shall be a public document, made easily accessible to the public.

(3) The Commission may also prepare special reports with respect to specific cases directly inquired into by it. These reports shall also be made easily accessible to the public.

Rights of the complainant

146. (1) The Complainant may lodge his complaint relating to any "misconduct" or "serious misconduct" on the part of Police personnel either with the departmental police authorities or with the Commission :

Provided that no complaint shall be entertained by the Commission if the subject matter of the complaint is being examined by any other Commission, or any Court.

(2) In cases where a complainant has lodged a complaint with the Police authorities, he may inform the Commission at any stage of the departmental inquiry about any undue delay in the processing of the inquiry.

(3) The complainant shall have a right to be informed of the progress of the inquiry from time to time and its result by the inquiring authority (the concerned police authority or the Commission).

(4) The complainant may attend all hearings in an inquiry concerning his case. The complainant shall be informed of the date and place of each hearing.

(5) All hearings shall be conducted in a language intelligible to the complainant. In a case where hearings cannot be conducted in such a language the services of an interpreter shall be requisitioned if the complainant so desires.

(6) Where upon the completion of the departmental inquiry, the complainant is dissatisfied with the outcome of the inquiry on the grounds that the said

inquiry violated the principles of natural justice, he may approach the Commission for appropriate directions.

Duty of the Police and other State agencies

147. (1) The Director General of Police shall refer or cause to be referred,all allegations of "serous misconduct" by Police personnel coming to his notice or of his Department to the Commission.

(2) It shall be the duty of the heads of the District Police and the State Police as well as any other concerned State agency to provide to the Commission all information it may reasonably require to perform its duties provided for in this Chapter.

Interference with the functioning of the Commission

148. Whoever influences or interferes with the functioning of the Commission, except in the course of lawful duty, shall, on conviction by a court of law, be liable to a fine or to an imprisonment for a term not exceeding one year, or both.

Explanation: Any threat, coercion or inducement offered to any witness or victim of police misconduct or serious misconduct, shall be deemed to be interference with the functioning of the Commission for the purposes of this Section.

Accountability for performance

Review of Police performance

149. (1) The State Police Board created under this Act shall regularly evaluate and review the performance of the Police Service in the State as a whole and also district-wise. For this purpose, the Board shall-

(a) identify performance indicators to evaluate the functioning of the Police Service, which shall, inter alia, include operational efficiency, public satisfaction, victim gratification vis-à-vis police investigation and response, accountability, optimum utilization of resources, and human rights record;

(b) review and evaluate organizational performance of the State Police against (i) the Annual Plan provided for in this Act, (ii) performance indicators as identified and laid down by the Board itself (iii) resources available with, and constraints of the Police;

(c) lay down policy guidelines for gathering information and statistics related to Police work; and

(d) suggest ways and means to improve the efficiency, effectiveness., accountability, and responsiveness of the Police.

Reports of the Board on police performance

150. (1) The Board shall, at the end of each calendar year, prepare and forward to the State Government an annual report on Police performance, which shall, inter alia, include recommendations for improvement.

(2) This report shall be laid before the State Legislature in the budget session and shall be a public document, made easily accessible to the public.

Protection of action taken in good faith

151. No suit or other legal proceeding shall lie against the State Government, the State Police Board, its members and staff, the Police Accountability Commission, its members, staff or any person acting under the direction of the Board or the Commission, in respect of anything which is in good faith done or intended to be done in pursuance of the provisions of this Chapter.

CHAPTER XIII

Welfare and Grievance Redressal Mechanism for Police Officers

Welfare Officer and Welfare Committee

152. (1) An officer not below the rank of Deputy Inspector General of Police, in the office of the Director General of Police, shall be designated as Welfare Officer to advise and assist him in the implementation of welfare measures for Police Officers.

(2) The functions and duties of the Welfare Officer shall, inter alia include administration and monitoring of welfare measures for Police personnel, such as-

(a) health care, particularly in respect of chronic and serous ailments, and including post-retirement health care schemes for Police personnel and their dependents;

(b) full and liberal medical assistance to police personnel suffering injury in the course of performance of duty;

(c) financial security for the next of kin of those dying in harness;

(d) post-retirement financial security;

(e) group housing;

(f) education and career counseling and training in appropriate skills for dependents of police officers; and

(g) appropriate legal facilities of defence of police officers facing court proceedings in matters relating to bonafide discharge of duty.

(h) monitor the welfare activities undertaken by various Police units in the State.

(3) The Welfare Officer shall be assisted by such subordinate officers as prescribed by the Director General of Police.

(4) A Police Welfare Fund, under the administration and control of the Welfare Officer, shall be created for the welfare activities and programmes for Police personnel, which will have two components-

(a) outright financial grant by the State; and

(b) matching grant by the state to the contributions made by the Police personnel, towards the welfare fund.

(5) The Welfare Officer shall, in the performance of his functions, be guided by the norms and policies, laid down by a Welfare Committee and ratified by the Director General of Police. The Welfare Committee shall comprise of one or two police personnel of different ranks from each unit or wing of the Police service to be nominated by the Director General of Police.

(6) The Welfare Officer shall also interact with other government departments, public sector undertakings and other organisations to facilitate gainful employment for retired police officers, and for the dependents of police personnel who have laid down their lives in due discharge of their duties.

Insurance cover, allowances and medical facilities

153. (1) The State Government may provide insurance coverage for all or specific category or class of Police officers against any injury, disability, or death caused in the course of performance of their duty.

(2) Police Officers posted in special wings, such as Counter-Terrorism Operations Units, Bomb Disposal Squads, Commando Groups etc. shall be paid risk allowance commensurate with the risks involved in those duties.

(3) In addition to facilities as may be made available in hospitals for general treatment and specialised services, Police personnel may also be provided with a medical insurance cover that would enable them to keep up the required standards of health and physical fitness.

(4) Facilities for stress management, including psychological counseling, to cope with professional stress shall be given due attention in all police units and establishments.

Grievance Redressal

154. (1) The Director General of Police, with the approval of the State Government shall put in place a fair, transparent, and participatory grievance redressal mechanism for looking into individual as well as collective grievances of Police personnel, which shall be freely received and channeled upwards from all levels of the organization. Till such time any other mechanism is put in place the Welfare Officer and the Welfare Committee indicated in Section 152 shall serve the purpose and report to the Director General of Police.

(2) The grievances that cannot be redressed by the said mechanism shall be forwarded to the State Police Board, which in turn, shall make appropriate recommendations to the State Government for remedial measures.

(3) An analysis of the grievances, their causes and their impact on the morale and efficiency of the Police Service shall be carried out annually. This analysis shall be included in the annual report of the State Police Board.

Working hours

155. The State Government shall take effective steps to ensure that the average hours of duty of a Police Officer do not normally exceed eight hours a day :

Provided that in exceptional situations the duty hours of a Police Officer may extend up to 12 hours or beyond. In such cases, adequate compensation and facilities shall be provided to the Police personnel.

CHAPTER XIV

General Offences, Penalties, and Responsibilities
Order in streets and public places

Regulation of public assemblies and processions

156. (1) The District Superintendent of Police or an officer not below the rank of Assistant/Deputy Superintendent of Police may, where necessary, direct the conduct of all assemblies and processions on any public place, road, street or through fare, and prescribe the routes by which and the time at which such a procession may pass or the place at which and the time for which an assembly may be held.

(2) It shall be duty of any person intending to organize a procession on any road, street or thoroughfare, or to convene an assembly at any public place, to give intimation in writing to the concerned District Superintendent of Police or the Sub- Divisional Police Officer.

(3) The District Superintendent or any officer not below the rank of Assistant/ Deputy Superintendent of Police, on receipt of such intimation or otherwise, and upon being satisfied that such an assembly or procession, if allowed without due control and regulation, is likely to cause a breach of peace, may prescribe necessary conditions including making provisions for satisfactory regulatory arrangements, on which alone such assembly or procession may take place. Under special circumstances to be recorded in writing, the concerned officer may also prohibit the assembly or procession in public interest. All orders and directions should be given within 48 (forty-eight) hours of receipt of intimation, as far as possible.

Assemblies and Processions violating prescribed conditions

157. (1) A Magistrate or any Police Officer not below the rank Sub-Inspector of Police, authorized in this behalf by the District Superintendent of Police, may stop any assembly or procession which violates the conditions set under sub-sections (1) and (3) of Section 156, and order such assembly or procession to disperse.

(2) Any assembly or procession which neglects or refuses to obey any order given under sub-section (1) above shall be deemed to be an "unlawful assembly "under Chapter VIII of the Indian Penal Code, 1860.

Regulation of the use of music and other sound systems in public places

158. (1) Any Magistrate or the District Superintendent of Police or any officer not below the rank of Assistant/Deputy Superintendent of Police may regulate the time and the volume at which music and other sound systems are used in connection with any performances and other activities in or near streets or any public place that cause annoyance to the residents of the neighborhood.

(2) It shall be the duty of any person intending to organize an event or performance at a public place at which music and other sound systems are used in connection with the performances to give intimation in writing to the concerned Magistrate and District Superintendent of Police or the Sub-Divisional Police Officer.

(3) Any Magistrate or the District Superintendent of Police or any officer not below the rank of Assistant/Deputy Superintendent of Police, on receipt of such intimation or otherwise, and upon being satisfied that such an event, if allowed without due control and regulation, is likely to cause a breach of peace or annoyance to the residents of the neighborhood, may prescribe necessary conditions including making provisions for satisfactory regulatory arrangements, on which alone such event may take place. All orders and

directions should be given within 48 hours of receipt of intimation, as far as possible.

Directions to keep order on public roads

159. (1) Any Magistrate or the District Superintendent of Police or any other Police Officer authorized by him in this behalf, through a general or special order, may give reasonable directions to the public to keep order on public roads arid streets, thoroughfares, or any public place, in order to prevent obstruction, injury, or annoyance to passers-by or to prevent pollution.

(2) Any Magistrate or the District Superintendent of Police may issue general directions under sub-section (1) in respect of the whole district or any part thereof.

Penalty for disobeying orders or directions

160. Any person not obeying the lawful orders issued under Sections 156, 157 and 158 may be arrested and on conviction by a Court of law, shall be liable to a fine.

Power to reserve public places, and erect barriers

161. (1) Any Magistrate or the District Superintendent of Police may, by public notice, temporarily reserve for any public purpose any street or other public place, and prohibit the public from entering the area so reserved, except on such conditions as may be specified.

(2) (a) The District Superintendent of Police may authorize any Police officer to erect barriers and other necessary structures on public roads and streets, to check vehicles or occupants thereof for violation of any legal provisions by them.

(b) In making such order, the District Superintendent of Police shall prescribe the necessary steps for ensuring the safety of passers-by.

(c) These temporary structures shall be removed once the purpose for which they were installed is over.

Saving of Control of Magistrate of the District

162. Not withstanding anything contained in this chapter, nothing shall be deemed to have interfered with the general control of the Magistrates of the District on the matters assigned to them under any law for the time being in force.

Offences against the Police

Obstruction in Police work

163. Any person, who obstructs the discharge of duties and functions of a police officer, shall, on conviction, be liable to simple imprisonment not exceeding three months or fine or both.

Unauthorised use of Police uniform

164. Whoever not being a member of the Police Service, wears, without obtaining permission from an officer authorized in this behalf by the State Government by a general or special order, a Police uniform or any dress having the appearance or bearing any or the distinctive marks of that uniform, shall, on conviction, be punished with imprisonment not exceeding six months or fine or both.

Refusal to deliver up certificate etc. on ceasing to be Police officer

165. Whoever, having ceased to be a Police officer, does not forthwith deliver up his/her certificate of appointment, clothing, accoutrements and other wherewithal supplied to him for the execution of his duty, shall on conviction by a court of law, be liable to a fine.

False or misleading statement made to the Police

166. Whoever makes a false statement or a statement which is misleading in material particulars to a Police officer for the purpose of obtaining any benefit shall, on conviction, be punished with imprisonment for a term which may extent to three months or a fine or both.

Offence by the police

Dereliction of duty by Police officer

167. (1) Whoever, being a Police officer-

(a) willfully breaches or neglects to follow any legal provision, procedure, rules, regulations applicable to members of the Police Service; or

(b) without lawful reason, fails to register a First Information Report as required by Section 154 of the Code of Criminal Procedure, 1973; or

(c) is found in a state of intoxication, while on duty; or

(d) malingers or feigns illness or injury or voluntarily causes hurt to himself with a view to evading duty; or

(e) acts in any other manner unbecoming of a Police Officer;shall,on conviction, be punished with imprisonment for a term which may extend to three months or with a fine or both.

(2) Whoever, being a Police Officer :-

(a) is guilty of cowardice; or

(b) abdicates duties, or withdraws from duties or remains absent without authorization from duty for more than 21 (twenty-one) days; or

(c) uses criminal force against another Police Officer, or indulges in gross insubordination; or

(d) is guilty of sexual harassment in the course of duty, whether towards other Police Officers or any member of the public; shall, on conviction, be punished with imprisonment for a term which may extend to three months or with a fine or both.

Arrest, search, seizure and violence

168. Whoever, being a Police officer-

(1) without lawful authority and reasonable cause enters or searches, or causes to be entered or searched, any building, vessel, tent or place; or

(2) unlawfully and without reasonable cause seizes the property of any person; or

(3) unlawfully and without reasonable cause detains, searches, or arrests a person; or

(4) unlawfully and without reasonable cause delays the forwarding of any person arrested to a Magistrate or to any other authority to whom he is legally bound to forward such person;

(5) subjects any person in her/his custody or with whom he may come into contact in the course of duty, to torture or to any kind of inhuman or unlawful personal violence or gross misbehavior;

(6) holds out and threat: or promise not warranted by law; shall, on conviction, be punished with imprisonment for a term which may extend to one year and shall be liable to fine.

Offences by the public

169. (1) Any person who commits any of the following offences on any road, or street or thoroughfare, or any open place, within the limits of any area specially notified by the State Government or a Local Government for the purpose of this Section, to the inconvenience, annoyance or danger of the residents or passers-by shall, on conviction by a Court, be liable to a fine:

(a) allowing any cattle to stray, or keeping any cattle or conveyance of any kind standing longer than is required for loading or unloading or for taking up or setting down passengers, or leaving any conveyance in such a manner as to cause inconvenience or danger to the public;

(b) being found intoxicated and /riotous;

(c) neglecting to fence in or duly protect any well, tank, hole or other dangerous place or structure under his charge or possession; or otherwise creating a hazardous situation in a public place;

(d) defacing, or affixing notices, or writing graffiti on walls, buildings or other structures without the prior permission of the custodian of the property;

(e) willfully entering or remaining without sufficient cause in or upon any building belonging to the Government or land or ground attached thereto, or on any vehicle belonging to Government;

(f) knowingly spreading rumours or causing a false alarm to mislead the police fire brigade or any other essential service or;

(g) willfully damaging or sabotaging any public alarmsystem;

(h) knowingly and willfully causing damage to an essential service, in order to cause general panic among the public;

(i) acting in contravention of a notice publicly displayed by the competent authority in any government building, provided that the police shall take cognizance of this offence only upon a complaint made by an authorized functionary of the concerned office;

(j) causing annoyance to a woman by making indecent overtures or calls or by stalking, provided that the Police shall take cognizance of this offence only upon a complaint made by the victim;

(k) throwing dirt, waste materials, plastic bags etc. in jhoras';

(l) unloading or keeping any construction material etc, on a street, road or thoroughfare that may cause obstruction to the movement of the people or vehicles;

(m) slaughtering any cattle, cleans any carcass or rides or drives any cattle recklessly on any road or in any open place to the obstruction, inconvenience, annoyance, risk danger or damage of the residents or passers-by;

(n) neglects to fence in or protect any well, tank or other dangerous place or structure.

(2) The State Government may, by notification in the OfficialGazette, prescribe a minimum amount of fine that shall be imposed on a person on conviction for any offence mentioned in sub-Section (1).

(3) It shall be lawful for any police officer to take into custody, without a warrant, whoever commits any of the offences mentioned in sub-section (1) .

(4) Whoever commits any offence under sub-Section (1), on subsequent conviction shall be liable to enhanced punishment.

Procedural matters

Procedure for posting directions and public notices

170. (1) All general directions, regulations and public notices issued under this Chapter shall be published by posting notices in the office of the District and Sub-Divisional Magistrate, BDO Office, and Panchayat office of the local area as well as in the locality affected, by affixing copies in conspicuous places near the building or place to which the notice specially relates, or by announcing it by the beating of drum or by advertising in local newspapers and other media, or by any other means as the Superintendent of police may deem fit :

Provided that the Superintendent of Police may, on being satisfied that it is in public interest to bring any regulation into force with immediate effect, make such direction or regulation without previous publication.

(2) If any direction or regulation made under this section relates to any matter with respect to which there is a provision in any law, rule or bylaw of the Corporation or of any other Municipal or Local Authority in relation to public health, convenience or safety of the locality, such regulation shall be subject to such law, rule or byelaw.

Prosecution of police officers

171. No Court shall take cognizance of any offence alleged to have been committed under this Act by any Police officer while acting or purporting to act in the discharge of his official duty except on a report in writing of the facts constituting such offence by, or with the previous sanction by the authority duly authorized by the State Government in his behalf.

Prosecution for offences under other laws

172. Subject to the provisions contained in Section 300 of the Code of Criminal Procedure, 1973, nothing in this Act shall be construed as preventing any Person from being prosecuted and punished under any other law for anything made punishable by this Act.

Summary disposal of certain cases

173. (1) A court taking cognizance of an offence punishable under Sections 160 and 169 may state, upon the summons to be served to the accused person, that he may, by a specified date prior to the hearing of the charge, plead to the charge by registered letter, and remit to the court such sum as the court may specify.

(2) Where an accused person pleads guilty and remits the sum specified in the summons under sub-section (1), no further proceedings in respect of the offence shall be taken against that person.

Recovery of penalties and fines imposed by Magistrates

174. Provisions of Sections 64 to 70 of the Indian Penal Code 1860 and Sections 386 to 389 of the Code of Criminal Procedure 1973 shall apply to penalties and fines imposed under this Act on conviction before a Magistrate:

Provided that notwithstanding anything contained in Section 65 of the Indian Penal Code, 1860, any person sentenced to fine under Sections 160 and 169 may be imprisoned in default of payment of such fine, for any period not exceeding eight days.

Limitation of actions

175. No Court shall take cognizance of any offence under this Chapter after the expiry of the period of limitation provided for in Section 468 of the Code of Criminal Procedure, 1973. The provisions of Chapter XXXVI of the Code of Criminal Procedure shall apply for computing the period of limitation.

CHAPTER XV

Miscellaneous

Disposal of fees and rewards

176. All fees paid for licenses or written permission issued under this Act and all sums paid for the service of processes by police officers and all rewards, forfeitures and penalties or shares thereof which are by law payable to Police officer as informers shall, save in so far as any such fees or sums belong under the provisions of any enactment in force to any local authority, be credited to the State Government :

Provided that with the sanction of the State Government, or under any rule made by the State Government in that behalf, the whole or any portion of any such reward, forfeiture or penalty may for special services, be paid to a police officer, or be divided amongst two or more Police Officers.

Method of proving orders and notifications

177. Any order or notification published or issued by the State Government or by a Magistrate or officer under any provision of this Act, and the due publication or issue thereof may be proved by the production of a copy thereof in the Official Gazette, or of a copy thereof signed by such Magistrate, or officer, and by him certified to be a true copy of an original published or issued according to the provisions of the section of the Act applicable thereto.

Validity of rules and orders

178. No rule, regulation, order, direction, or notification made or published and no adjudication, inquiry or act done under any provision of this Act, or under any rules made there-under, which is in substantial conformity with the same, shall be deemed illegal, void or invalid by reason of any defect of form.

Officers holding charge of or Succeeding to vacancies competent to exercise powers

179. Whenever in consequence of the office of a police officer becoming vacant, any officer holds charge of the post of such police officer or succeeds, either temporarily or permanently, to his office, such officer shall be competent to exercise all the powers and perform all the duties respectively conferred and imposed by this Act on such police officer, as the case may be.

Licences and written permissions to specify conditions, and to be signed

180. (1) Any licence or written permission granted under the provisions of this Act shall specify the period and locality for which and the conditions and restriction subject to which, the same is granted, and shall be given under the signature of the competent authority and such fee for grant of such permission may be charged as is prescribed by any rule under this Act or as prescribed by the State Government from time to time in that behalf.

Revocation of licence

(2) Any licence or written permission granted under this Act may at any time be suspended or revoked by the competent authority, if any of its conditions or restrictions is infringed or evaded by the person to whom it has been granted, or if such person is convicted of any offence in any matter to which such licence or permission relates, or if there is likelihood of breach of peace.

When licence is revoked, grantee deemed to be without licence

(3) When any such licence or written permission is suspended or revoked, or when the period for which the same was granted has expired, the person to whom the same was granted shall for all purposes of this Act, be deemed to be without a licence or written permission until the order for suspending or revoking the same is cancelled, or until the same is renewed, as the case may be.

Licence and permission to be produced when required

(4) Every person to whom any such licence or written permission has been granted, shall, while the same remains in force, at all reasonable time, produce the same, if so required by a Police Officer,

Explanation: For the purpose of. this section any such infringement or evasion by, or conviction of, a servant or other agent acting on behalf of the person to whom the licence or written permission has been granted shall be deemed to be infringement or evasion by, or as the case may be, conviction of the person to whom such licence or written permission has been granted.

Pubic notices how to be given

181. Any public notice required to be given under any of the provisions of this Act shall be in writing under the signature of a competent authority and shall be published in the locality to be affected thereby, by affixing copies hereof in conspicuous public places, or by proclaiming the same with beat of drums, or by advertising the same in such local newspapers-English or regional language or Hindi as the said authority may deem fit, or by any two or more of these means and by any other means it may think suitable :

Provided that the Competent Authority may, on being satisfied that, it is in public interest to bring any regulation into force with immediate effect, make such direction or regulation without previous publication.

Consent of competent authority may be proved by writing under his signature

182. Whenever under this Act, the doing or the omitting to do anything or the validity of anything depends upon the consent, approval, declaration, opinion or satisfaction of a competent authority, a written document signed by a competent authority purporting to convey or set forth such consent, approval , declaration, opinion or satisfaction shall be sufficient evidence thereof.

Power to make rules, notification in official Gazette, and laying of rules before the State Legislature

183. (1)The Government may make rules and regulations for carrying out the purposes of this Act.

(2) Every rule and regulation made under this Act shall be made by notification in the Official Gazette.

(3) Every rule and regulation made under this Act shall be laid, as soon as may be after it is made, before the State Legislature:

Provided that all the rules, regulations and orders relating to administration of the State Police establishment existing immediately before commencement of this Act shall be deemed to have been made under this Act unless any provision thereof is found inconsistent with this Act.

Power of Additional Director General of Police etc. to issue Standing Instructions on matters within their jurisdiction

184. Subject to Section 121, the Additional Director General of Police, Inspector General of Police, Deputy Inspector General of Police and Superintendent of Police, and Commandant of a Battalion may issue standing instructions within their respective jurisdiction to carry out the purposes of this Act.

Power to remove difficulties

185. (1) If any difficulty arises in giving effect to the provisions of this Act the State Government may, by notification in the Official Gazette, make such provisions as it deems necessary or expedient for removing the difficulty.

(2) Every notification issued under this section shall, as Soof as may be after it is issued, be laid before the legislature.

Persons aggrieved may apply to State Government to annul, reverse or alter any rule or order

186. In the case of any rule or order made by the State Government under an authority conferred by this Act and requiring the public or a particular class of persons to perform some duty or act, or to conduct or order themselves or those under their control in a manner therein described, it shall be competent

to any aggrieved person to make the representation to the State Government to annul, reverse, or alter the, aforesaid rule or order.

Repeal and saving

187. (1) The Police Act, 1861, in its application to the State of Sikkim, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken or any proceeding instituted under the Act so repealed shall be deemed to have been done or taken or instituted under the corresponding provision of this Act.

(3) All references in any enactment to any of the provisions of the Act so repealed shall be construed as references to the corresponding provision of this Act.

By Order.

R. K. PURKAYASTHA, SSJS
LR-cum-Secretary
Law Department.
16 (82)/ LD/P/2008